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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

- - -

Isaiah Andrews,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No: 1:22-CV-00250
	)	Judge Gwin
City of Cleveland, et al.,	)	
	)	
Defendants.	)	

- - -

Continued videotaped deposition of Carmen  
Marino, a witness herein, called by the Defendants  
for direct examination pursuant to the Federal Rules  
of Civil Procedure, taken before Constance Versagi,  
Notary Public in and for the State of Ohio, at  
3340 Rocky River Drive, Cleveland, Ohio, on Tuesday,  
February 28, 2023, commencing at 10:45 a.m.

- - -

VOLUME II

- - -

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1 APPEARANCES: Cont'd

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3 Detective David Lee Hicks, Detective J. Francis  
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6 Walsh, Estate of William Hubbard, Estate of Pete  
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18 Also Present:

19 Steve Mengelkamp, Videographer

20 - - -  
21  
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25

INDEX		
WITNESS:	CROSS	REDIRECT
Carmen Marino		
By Ms. Gelsomino	166	
By Mr. Calderone		361
- - -		

1 PROCEEDINGS

2 THE VIDEOGRAPHER: We're on the record  
3 at 10:45.

4 CARMEN MARINO

5 of lawful age, being first duly sworn, as  
6 hereinafter certified, was examined and testified  
7 as follows:

8 CROSS-EXAMINATION

9 BY MS. GELSOMINO:

10 Q All right. Carmen, here we are again. So I  
11 would like to start today with asking you some  
12 questions about how you kept your file.

13 A My personal file?

14 Q Yes. So you previously testified that when  
15 you signed -- when you were assigned a case,  
16 you would request the file from the records  
17 room, right?

18 A Right.

19 Q When that file came to you, what did it look  
20 like?

21 A Brand new, containing all the records that the  
22 police put into it.

23 Q Okay.

24 A It would have just the basics on it. A form  
25 of about 4 by 6 inches with the typed-in

1           detectives' names on it, City of Cleveland or  
2           City of Rocky River or whatever, the heading.  
3           The number would be in the upper left-hand  
4           corner. It got to the point where the -- it  
5           was a six digit number. But it wasn't always  
6           that. It was a five digit number. And there  
7           were cases when I started with four digit  
8           numbers.

9       Q       That's the file number?

10      A       That's the file number, yes.

11      Q       Was that a County Prosecutor file number?

12      A       Yes.

13      Q       Okay.

14      A       State versus whatever the defendant or  
15           defendants' names were. The judge in the -- I  
16           can't remember, upper right-hand corner, lower  
17           left-hand, one of the two.

18                   Then we would fill out the rest. You  
19           know, if it was us, we would sign our names on  
20           it as handling the pretrial. The case would  
21           be completed by the person who tried the case  
22           or disposed of it. He would write in the  
23           disposition, the date, his name would go on  
24           the file. If he tried the case, same thing,  
25           he would wait for the verdict to come in, and

1           then it would be -- after the trial, it would  
2           be refiled back at the records room.

3    Q       Okay. And you're describing like one piece of  
4           paper where you would write down the pretrials  
5           and the disposition and everything?

6    A       No, right on the front of the cover.

7    Q       On the file jacket?

8    A       So when you picked it up, you knew who handled  
9           the case, which judge it was, what the verdict  
10          was, and what the plea.

11   Q       And so -- that makes sense actually. So  
12          everything that was -- any prosecutor who was  
13          working the case did, would be written on the  
14          front of the file jacket?

15   A       Right. And if it went from one prosecutor to  
16          another, the prosecutor's name that would  
17          handle the first pretrial would be on there on  
18          the side. And then notes would be down on the  
19          second hearing or something like that.

20                But they got rid of the cases pretty  
21          quick because they instituted a speedy trial  
22          law.

23   Q       Right. Were you around when that law was  
24          instituted?

25   A       Um-hum.

1 Q Were you around before that was instituted?

2 A Yeah.

3 Q Oh, that's interesting. Okay. And there was  
4 one file jacket per indictment?

5 A Yes.

6 Q So even if -- what if one defendant had  
7 multiple cases in different indictments, they  
8 would each have their own file jacket?

9 A Each crime with the defendant's name on it  
10 would be a separate file. Now if there were  
11 multiple defendants on a particular crime,  
12 there would be multiple defendants on that  
13 file.

14 Q Got it.

15 A So you might have a defendant who has a count  
16 of burglary or robbery, something like that,  
17 with another defendant. Another one by  
18 himself. Another one with a third defendant.  
19 Another one with three or four defendants. So  
20 it goes by the crime that was accused.

21 Q Okay. That makes sense.

22 And then inside that file jacket, was it one  
23 of those like big folders that opened up and  
24 you just keep your file right in and --

25 A Right. It was an envelope really. It didn't



1           expand. So some cases that were really long,  
2           you would have to get an expansion file to add  
3           to it, and that would have a sticker on it  
4           identifying it or written on front of it that  
5           it is part of the other case.

6   Q       Okay.

7   A       So they would go together. They would be  
8           bound together.

9   Q       Okay. That makes sense.  
10           So in this envelope -- I appreciate you using  
11           that word, that helps me -- there would be the  
12           police reports, right? Like right when you  
13           got it out of the records room?

14   A       Right.

15   Q       And then what else would be in there at that  
16           time?

17   A       It would start with a yellow sheet that was  
18           the worksheet for the indictment for the Grand  
19           Jury. Then there would be the indictment and  
20           all the police reports would be in there.

21           Usually if it was a homicide, there  
22           would be the coroner's report. And like I  
23           say, it was complete. Rarely did any  
24           prosecutor in any case, including the  
25           homicides, have to do any special

1 investigation.

2 Q Okay. What's the Grand Jury worksheet?

3 A The what?

4 Q Grand Jury worksheet?

5 A Before they have anything formally typed out,  
6 they sit down with the detectives or they will  
7 go through the case themselves and start  
8 writing out what type of crime it is. You  
9 know, they have to know, especially when the  
10 death penalty came back, okay, there is -- and  
11 they changed it from first degree murder,  
12 second degree murder, manslaughter. It went  
13 from aggravated murder with specifications,  
14 aggravated murder, down to manslaughter. They  
15 would have to know what type of crime it is so  
16 what statute they would refer to when they  
17 presented it to the Grand Jury.

18 Q Okay. And that was something filled out by  
19 the Grand Jury prosecutors?

20 A Right, the Grand Jury prosecutors did that.  
21 We had, I think, at one time the cases were  
22 coming in, we had three or four Grand Juries  
23 going. One in the morning, one the afternoon  
24 for two or three days.

25 Q When you looked through Exhibit L, these two

1 big binders of the whole file, did you see the  
2 Grand Jury worksheet?

3 A I don't recall seeing it in there.

4 Q Okay. But you would expect to see that in  
5 your file when you take the records --

6 A That's the first thing we did, start going  
7 through the -- write down what statutes are  
8 applicable.

9 Q Okay. So there would be one -- you said that  
10 you were working with two other prosecutors at  
11 a time, right?

12 A Right.

13 Q Were all -- so if you were working a file, and  
14 there were other prosecutors that were also  
15 assigned to the same room, how would you share  
16 this file?

17 A The head prosecutors would distribute it.

18 Q Okay.

19 A Here, take this pretrial. The other guy take  
20 another pretrial. We divide them up.

21 Q Would you make -- would you have your own  
22 working file? Like whenever I work a case, I  
23 have my own little working file where I keep  
24 my notes and my own copies of reports and  
25 stuff like that.

1 A No. Anything we do -- our notes or whatever  
2 would be on the outside. I can remember  
3 writing a lot of notes on the outside of the  
4 back of a file, or just write it on a piece of  
5 paper and stick it in the file.

6 Q Why would you do that?

7 A It is the easiest way of doing it without  
8 keeping a separate file for myself.

9 Q Okay.

10 A I don't know that anybody did it. What they  
11 did in Major -- I don't how many divisions  
12 they have now. If you start getting assigned  
13 cases to you, like we did in the Major Trial  
14 Division, then you would have to keep the list  
15 of cases that you had and what category they  
16 were in so that you can keep -- you know, know  
17 how many cases you are responsible for. Find  
18 out which ones are nearing termination on time  
19 and so.

20 Q Okay. So you -- so that would be like just  
21 your own organizational chart?

22 A Right.

23 Q You would keep a list of your own cases,  
24 right?

25 A Right.

1 Q Okay. That makes sense.

2 Did you do that?

3 A I did. It would list the case number, the  
4 date of indictment, the name of it, when the  
5 pretrials were, and if there was a  
6 disposition, I would write in a disposition  
7 and check off that that case was disposed of.

8 Q Okay. Did you save any of those lists?

9 A I saved some of them. They might be in a box  
10 in my office. It was difficult for me for the  
11 past few days to -- if I bend down too far, my  
12 hip could pop out, okay? So I don't want to  
13 go back to the hospital. So I tried to bend  
14 down and look at some of the boxes. I just  
15 couldn't get them out of there.

16 But it is a folder, page after page of  
17 the cases that were assigned to me.

18 Q Okay. I don't want you to do anything that is  
19 going to require you to go back to the  
20 hospital.

21 A Well, this was not one of them. This was  
22 before I was in the Major Trial Division or  
23 the COP program so I wouldn't have had a  
24 private docket.

25 Q Okay. Do you have any notes, do you think,

1           any personal records related to the Andrews'  
2           case?

3    A       No.

4    Q       Do you have any personal records or notes  
5           related to any of your prosecutorial -- or any  
6           of your work as a prosecutor from '74 to '75?

7    A       No.

8    Q       So I'm not sure that I got a clear answer to  
9           this, so I just want to be sure.  When you --  
10          would you ever keep notes related to your work  
11          on a case that were not inside the main file?

12   A       No.

13   Q       Once you were -- you were working with three  
14          attorneys per two judges, right?

15   A       Right.

16   Q       Did you always move together with those  
17          attorneys?

18   A       No.  They would break up teams from time to  
19          time.  But there were some stretches, like the  
20          name of Ruggeri, Bob Ruggeri --

21   Q       Right.

22   A       -- he and I were together for like two years.

23   Q       Okay.

24   A       And sometimes when we got stretched thin, we  
25          would have two prosecutors for two judges.

1 But they would have to -- without sounding too  
2 egotistical, they would have to be like  
3 Ruggeri and me. Any one of us could handle  
4 any trial. We didn't need anyone to sit with  
5 us. We could handle the judge's docket by  
6 ourselves. But that was difficult because  
7 when you get in trial, who is going to handle  
8 the pretrials. That was what the third person  
9 was for.

10 Q That makes sense.

11 A Yes.

12 Q Do you recall the approximate two years that  
13 you and Ruggeri worked together?

14 A No, other than we did. There was a stretch  
15 where another guy, Tom Wagner and I probably  
16 were together longer than that. But I don't  
17 remember which years we were.

18 Q Okay. Ruggeri, did you ever work with him  
19 around '74 or '75.

20 A His name is down there. I might have.

21 Q You don't remember?

22 A I do not.

23 Q It seems like his name was down there as a  
24 note but not as if he was a colleague of yours  
25 on this case. That's how I read it. But --

1 A I don't think he was.

2 Q Okay.

3 A Usually the supervisors who make up the teams  
4 would try to distribute the ones who were most  
5 experienced with others who were less.

6 Q That makes sense.

7 A So you wouldn't get three top experienced  
8 attorneys in one room or in two rooms. So  
9 they divided them up so that the younger  
10 people got guidance.

11 Q That makes perfect sense. It's how you train  
12 people, right?

13 But where were you in terms of  
14 experience level in '74-'75 in relation to  
15 Ruggeri?

16 A I found out pretty fast that I could handle  
17 cases. I was not afraid of the jury. We had  
18 some guys that would get stage struck. I  
19 mean, they would literally stand up in front  
20 of the jury and just couldn't say anything.  
21 And the assistant would get up there and sit  
22 them down.

23 So I was not -- I didn't have any  
24 problem with any of the cases. In fact, I  
25 think it was 1975 that September, October,



1 November, I tried a case, in Judge Nahra's  
2 room that lasted three months. I think that  
3 was one of my first really extraordinary cases  
4 that was long.

5 Q Okay. And how about Ruggeri?

6 A Ruggeri had to be with me in like '71, '72,  
7 '73, something like that.

8 Q Okay.

9 A Or after that, because like I say, we weren't  
10 in special units at that time. Everybody  
11 handled everything.

12 Q But you don't remember ever talking to Ruggeri  
13 about the Andrews case?

14 A No.

15 Q Okay. So my question, my original question,  
16 was these three prosecutors. When you were  
17 reassigned from -- oh, you said occasionally  
18 you were broken up in teams, right?

19 A Yeah, and regularly. You might do two tours  
20 of duty, whether it was three months or so. I  
21 think they found that -- I can't remember what  
22 they thought was better. Three months was  
23 pretty short. Six months was better.

24 So on a longer tour of duty like that,  
25 you would probably get broken up after six

1 months and you would go with other people.

2 Q Do you remember how long you were assigned to  
3 Sweeney?

4 A To Sweeney?

5 Q In the '74-'75 time.

6 A I don't. I can just extrapolate from the time  
7 that I came in in September of '74 to when I  
8 left at the end of February of '75. That's  
9 six weeks -- six months.

10 Q Okay.

11 A So I'm guessing that was probably the tour of  
12 duty, that is why I got switched.

13 Q Okay. So you believe that you were assigned  
14 to this case September of '74 through February  
15 of '75?

16 A Right.

17 MR. CALDERONE: Objection,  
18 foundation. Go ahead.

19 Q What is the basis of that -- of your  
20 estimation here, the time that you are --

21 A Because that's six months; September, October,  
22 November, December, January, February. I left  
23 the end of February. Because it looks like  
24 the way I was writing notes and making  
25 observations on those police reports, that I

1           was preparing for trial in March. That's why  
2           it surprised me -- it surprised me I think  
3           back at that time. We just switched. It was  
4           Charlie Laurie's case, but I thought I was  
5           going to be working on it. When you do that  
6           much on a case, pretty much they keep you  
7           together.

8    Q       Yeah.

9    A       But they didn't. So I did not end up trying  
10          the case. He did with Ron Adrine.

11   Q       Did you ever ask to try the case?

12   A       No.

13   Q       Was there ever a discussion about you  
14          remaining on and trying the case since you  
15          were days away from trial and you had done all  
16          the prep work?

17   A       No, I wasn't one that went looking for cases  
18          or anything like. You know, some easy case to  
19          make a name on or something like that. I just  
20          went where they told me.

21   Q       Okay. I don't mean anything like that. Just  
22          like, for the sake of efficiency. It just  
23          seems it would have sense for you to try this  
24          case.

25   A       Now I think back, I would thought they would

1           have kept Charlie and me on that case.

2     Q       Who made the decision to move you?

3     A       It would have been the prosecutor who has  
4           since passed named Robert Feighan.

5     Q       Okay.

6     A       He was the administrator for all the  
7           prosecutors.

8     Q       Okay.

9     A       He did it all by himself. He didn't have any  
10           assistants. Where later on we had three  
11           prosecutors who would handle assignments in  
12           rooms and stuff like that because there was  
13           just too many prosecutors.

14                   But even at that time we probably had  
15           50, 60 prosecutors that had to be assigned.

16    Q       Yeah. And I'm sorry, I don't remember if you  
17           told me this the other day. Do you remember  
18           the third person who was assigned to Sweeney's  
19           room with you and Laurie?

20    A       I don't.

21    Q       But you never worked with Adrine on this case  
22           at all?

23    A       Not on this case or any case.

24    Q       Did you ever work with Joe Gibson?

25    A       No. I know the name. I never worked on any

1 case with him.

2 Q You never worked on the Andrews' case with  
3 him?

4 A No.

5 Q When you were generally -- let's talk about  
6 this generally first and specifically about  
7 the Andrews' case.

8 A Sure.

9 Q Generally when you were rotated off a case,  
10 was there any kind of procedure or policy  
11 about how a case was handed from one  
12 prosecutor to the next?

13 A No written procedure or procedure that was  
14 established in the office. It was just a  
15 matter of common sense. If I was passing off  
16 a case to somebody else, if there was any  
17 complications in it, I would go over it with  
18 them and say, you know, handle it this way or  
19 this is my suggestion, or take a look at the  
20 case from this standpoint, or you might want  
21 to take a harder look on how you are going to  
22 handle the case.

23 If it was just a normal case that I had  
24 pretried and it was set for trial, I just let  
25 the next prosecutor pick it up. They could

1 figure it out.

2 Q Sure. But if you had done significant work on  
3 a case, then you would make sure that you  
4 passed off that information that you gathered  
5 to the next prosecutor?

6 A Yeah. And if I missed it, they would see how  
7 many notes I would have on it. They would  
8 contact me and ask me questions if they had  
9 any. That would generally be the procedure if  
10 they had any questions about it, since I had  
11 done so much work on it.

12 Q I understand there was no written policy on  
13 that. But was that the practice of the office  
14 to pass cases between prosecutors in a way  
15 that you just described?

16 A Right. If you are handing them off from one  
17 person to another, sure.

18 Q Was there ever any training on that?

19 A No. Mainly the training is, trial work  
20 training is sitting in a courtroom and  
21 learning.

22 Q Okay. When you would pass this information  
23 off to the next prosecutor, would you make any  
24 documentation of that?

25 A Well, my notes would be in the file. Would be

1           on the front of the file.

2                     There was no set procedure. There was  
3           no set form that you had to fill out.

4   Q       Right.

5   A       Just how I handled it. They could figure it  
6           out.

7   Q       Sure. But would you like, you know, write up  
8           a memo of what you learned or --

9   A       No, I never did.

10   Q      -- note bullet points of something for them to  
11           look at in the file?

12   A      No, no bullet points.

13   Q      And that wouldn't be something that you would  
14           -- that pass off of information would not be  
15           indicated anywhere in your notes in the file  
16           jacket?

17   A      It would be written on the file jacket. They  
18           would see my notes in the margin of the  
19           documents like you see them though now.

20   Q      Right.

21   A      But, you know, the vast majority of cases are  
22           not complicated.

23   Q      Sure.

24   A      Just change the name, change the dates, and  
25           the law is the same.

1 Q Is that true?

2 A It is.

3 Q I've come to that conclusion too, and I have  
4 far less established compared to you.

5 But I guess what I am trying to ask you  
6 is, like would there be a note somewhere in a  
7 file jacket that said on, you know, 2-22 sit  
8 down with so-and-so, new prosecutor, review  
9 case, like when you were passing it off?

10 A I can't remember ever doing it. If I had any  
11 notes, it would be written on the documents on  
12 the face of the file or back of the file or  
13 something like that.

14 Q Okay.

15 A I just didn't put special memos in there or  
16 anything.

17 Q So specifically when you were taken off the  
18 Andrews' case, six days before trial, at that  
19 point you had done a significant amount of  
20 work to gather information and investigate  
21 this case, right?

22 A Yes.

23 MR. LAMBERT: Objection,  
24 foundation.

25 MR. CALDERONE: Objection.



1 Q So did you take any steps in this case to pass  
2 that information that you learned in your  
3 investigation off to the new prosecutor?

4 A No. I don't remember any of that. I just  
5 went to the next thing. Because Charlie was  
6 the lead prosecutor, he was going to handle  
7 it. I was sitting second chair. So if he  
8 wanted Ron Adrine to know something, he would  
9 sit down with him and go over with him.

10 Q Did you ever have any conversation with  
11 Charlie Laurie about what you learned in the  
12 investigation?

13 A I don't recall it, but I'm sure we discussed  
14 the case a lot.

15 Q So everything that you have told us about this  
16 case thus far, all the notes you made and all  
17 the investigation that you did and information  
18 that you gathered, did you give all of that  
19 information to Charlie Laurie before he tried  
20 the case?

21 A It was in the file. So he took the file. If  
22 there were any questions, he could come back  
23 to me. I didn't make any -- I don't recall  
24 making any specific effort to say, here, here  
25 is what I've done on it. He knew what I was

1 doing.

2 Q Well, that's what I'm trying to get at. Like  
3 he knew what you were doing along the way,  
4 right?

5 A Yes.

6 Q Did you guys talk about that investigation and  
7 preparation along the way?

8 A I don't specifically remember it, but we would  
9 have had to.

10 Q Right.

11 A On a case like that, you start looking at all  
12 aspects of the case and you talk to each  
13 other. Because we both thought the two of us  
14 were going to try the case.

15 Q Okay. That makes sense.

16 As to this file, I don't -- I have this  
17 recollection of you saying something on  
18 Saturday about when reports came in to the  
19 Prosecutor's Office they were time stamped as  
20 received or something like that; do you recall  
21 that?

22 MR. LAMBERT: Objection.

23 MR. CALDERONE: Objection to form.

24 A I do.

25 Q Okay. Tell me more about that, please.

1     A       Well, if there was something to be added to  
2             the file, detectives or whoever was delivering  
3             it would go to our front desk. You couldn't  
4             get by the front desk. You couldn't just walk  
5             in the office and go back without the approval  
6             of the --

7     Q       Sure?

8     A       -- secretary who was handling it. And she was  
9             pretty firm. You know, it was -- well, at  
10            this time I don't know who it was. Since we  
11            were in four different buildings, there would  
12            have been four different secretaries.

13                    But they would time stamp it so the  
14            prosecutor knew when it came in. Now I don't  
15            know what other prosecutors did, but if it  
16            were sent to me, I would initial it if it was  
17            on the date I got it, I would write the date  
18            that I got it on, if it was not the same date  
19            that it came in as it was time stamped. We  
20            had a time stamp at the County Prosecutor's  
21            Office, date and the time that it was.

22    Q       Okay. Would the documents that came -- that  
23             were in that original file that you would  
24             request from the records room, would those  
25             also be time stamped for when they were

1 received by --

2 A No.

3 Q -- the office?

4 A They were original. They would be brought  
5 over by the detectives. They would make, I  
6 don't know, two, three, four copies. And the  
7 one that was given to us would be just put in  
8 the file.

9 Q Do you know how that process worked? How the  
10 officers would bring information or records to  
11 the Prosecutor's Office at the beginning of a  
12 case?

13 A I known generally. I never worked with them  
14 though. I mean, I couldn't say specifically  
15 because I never worked -- I worked one day in  
16 Grand Jury, I think it was, and that was  
17 enough.

18 Q Well, tell me what you know, please.

19 A Well, the standard would be there would be  
20 nothing in the file until the police brought  
21 over the reports. And then the prosecutor  
22 would sit down with -- one of the Grand Jury  
23 prosecutors would sit down with those reports,  
24 read them to figure which crimes by statute  
25 had been committed and what degree of homicide

1           was involved, or robbery, or aggravated or  
2           not. And then they would start making up the  
3           indictment.

4                       They would make up a sketch with the  
5           yellow form first, and then that would be  
6           typed in to a formal indictment when they went  
7           to the Grand Jury.

8    Q       So the records would come straight from the  
9           detectives to the Grand Jury prosecutor?

10   A       Right.

11   Q       Where did the City prosecutor come into this  
12           process, if you know?

13                       MR. CALDERONE:     Objection. Go ahead.

14   A       They don't. Once -- we used to handle what  
15           they called bind overs in the Cleveland muni  
16           court. Not in the suburbs. Because we got so  
17           much business from Cleveland. We would have a  
18           county prosecutor in the Cleveland Municipal  
19           Court when they would binding over felonies to  
20           us, follow me?

21   Q       Okay.

22   A       Because they don't have jurisdiction over  
23           felonies. So we would be in there. The  
24           person would come before the municipal judge.  
25           The charges against them would be read. The

1 charges on county crimes, not on city crimes.

2 And they would then be told it's going  
3 to be bound over to the County Grand Jury.  
4 Then they would start over again, through our  
5 process. They bring those cases over to the  
6 County Grand Jury. Then you would go, Grand  
7 Jury. If there is an indictment, go for an  
8 arraignment. And then to the judge who the  
9 case was assigned to.

10 Q The Bates stamped documents that you told --  
11 or the time stamped. I'm sorry, I keep saying  
12 Bates stamped. When they came into the  
13 office, do you know if those would be just,  
14 you know, it was just the front of the packet  
15 of papers time stamped? Was each page time  
16 stamped?

17 A No, just the front. Well, if it was one page,  
18 just one page would be stapled. If it was 10  
19 pages, the front page would be stamped.

20 Q And then so would police ever, other than what  
21 you described that sometimes police officers  
22 would bring additional information to the desk  
23 at your office, right, they would also come to  
24 pretrials and meet with you, right?

25 MR. CALDERONE: Objection to form.

1 Go ahead.

2 A Yes. Usually they would. Sometimes they  
3 would not. But on homicide cases, pretty much  
4 the homicide detective showed up.

5 Q Would they bring any files with them to the  
6 pretrials?

7 A They would bring the same files we had. The  
8 copy is what we have.

9 Q Did ever look at their files?

10 A No, not unless they were bringing something to  
11 my attention like, did you see in this in our  
12 file, and then I would go to our file and make  
13 sure it's in there.

14 Q Similarly, I've had police officers, homicide  
15 detectives in particular, testify to me that  
16 they would bring their own file to trial --

17 MR. LAMBERT: Objection.

18 Q -- to have with them.

19 MR. MENZALORA: Objection.

20 MR. CALDERONE: Objection; form,  
21 foundation.

22 Sorry, I thought you were done. Go  
23 ahead

24 Q Did you ever have that experience?

25 MR. CALDERONE: Objection, form,

1 foundation. You can answer.

2 A They are talking about their copy of the file  
3 they gave us.

4 Now, sometimes there might be, you  
5 know, their own notebooks that they have  
6 because they are not typing out the forms when  
7 they are talking to someone, they are just  
8 making notes. This witness come in and they  
9 would make a formal statement, and they know  
10 what questions to ask because they previously  
11 interviewed them.

12 Q Right.

13 A So if there was anything they were referring  
14 to, it would be their copy of the documents  
15 that they already gave us. So we would both  
16 be looking at the same thing at the same time  
17 when we were talking about something.

18 Q Would officers ever bring their own notes to  
19 trial?

20 MR. CALDERONE: Objection.

21 A I don't know. I never asked them or anything  
22 like that --

23 Q Well, I have had officers just -- in my  
24 experience, homicide detectives tell me that  
25 they would like make trial preparation notes,



1 outlines, kind of condense information and  
2 bring those with them to the prosecutor's  
3 table at trial.

4 Did you ever have that experience?

5 MR. LAMBERT: Objection to the form  
6 of the question.

7 MR. MENZALORA: Objection.

8 MR. CALDERONE: Objection, form,  
9 foundation.

10 A I can't, you know, I can't remember all of  
11 them. I can remember one extraordinary one  
12 when we were trying -- let's see. We were  
13 trying the two Kilbane brothers and Judge  
14 Robert Steele for the murder of his wife.  
15 There was a detective named Lou Coolis who was  
16 the head of the detectives in the Sheriff's  
17 Office.

18 Q Okay.

19 A I told him take the stand with everything. So  
20 he got on the stand with about, I would say,  
21 four inches, it might have been six inches of  
22 notes and everything. And I said, handle any  
23 question you want.

24 And so, of course, defense was probably  
25 overwhelmed. He had a stack in front of him.

1           There was the jury. There was the judge.  
2           But, yeah, he had a ton of his notes in there.  
3           Like I said, go ahead answer any question.  
4           Let them see whatever they want.

5   Q       Okay. And --

6   A       That was in trial in front of a jury and a  
7           judge.

8   Q       Right.

9                        Would you ever review the notes that  
10          officers made regarding their investigation  
11          and their preparation?

12   A       Not really unless they called it to my  
13          attention. Because what they wrote up in the  
14          report was their notes in a more formal form.

15   Q       Okay. In this case did officers ever bring  
16          any notes to any pretrials?

17                       MR. MENZALORA:     Objection.

18                       MR. CALDERONE:     In this case you  
19          mean?

20   Q       In Andrews.

21   A       Andrews' case.

22   Q       Thank you.

23   A       No, I don't remember them ever doing it. I  
24          don't even remember the pretrials in this  
25          case. We had them, but -- we had to have

1           them, because you always pretry any case,  
2           especially homicide cases. But I don't  
3           remember any special deliveries of any notes  
4           that they came to at pretrial.

5   Q       Okay. Now you testified that there were times  
6           where you ask the officers to gather  
7           information for you?

8                   MR. LAMBERT:        Objection.

9   Q       It that right?

10   A       Just that one time.

11   Q       What do you mean? Which time?

12   A       Where the guy was burned with kerosene.

13   Q       Oh, right. We talked about that. Thank you.  
14           I forgot about that. Right, that was the one  
15           specific time that you did tell me about that  
16           you had them go look for the kerosene.

17                   MR. LAMBERT:        Objection.

18   Q       In addition to that, though, I understood your  
19           testimony to be that sometimes as you were  
20           working a case, you would talk to the  
21           detectives --

22   A       You mean in trial? In trial if something were  
23           to pop up. The only thing I could do is give  
24           an example.

25   Q       Okay.

1     A       We were trying the organized crime case and an  
2             incident came up we where we had an alibi that  
3             we were going to break. Instead of saying he  
4             was with the defendant, he called -- he said  
5             he called the defendant from a phone booth.  
6             And so I told the detectives -- in fact, I  
7             remember Detective Rocco Pollutro, who became  
8             Chief of Police of Cleveland, this was on a  
9             Saturday, so -- to go out and check and see if  
10            the telephone booth was there, where they say  
11            they made the call.

12    Q       Was it?

13    A       No, it wasn't. It was put there three days  
14             after they killed Danny. So this guy couldn't  
15             possibly have done it.

16                So when that happened, it was his  
17                suggestion we do that. And of course mine  
18                was, bluntly, are you out of your mind. But  
19                he said, let's check it out. So he checked it  
20                out. And Monday morning there was the Ohio  
21                Bell telephone guy talking about how it was  
22                not working until three days after Danny  
23                Greene was killed. So there was no worry  
24                about an alibi until after that.

25                So that is one where they had to go out

1           and check out something.

2     Q       That worked out, huh?

3     A       Yeah, sure did. The jury was impressed.

4     Q       When officers would come to pretrials, did you  
5           make any note of that or report of that, or  
6           have to like fill out one of the duty cards or  
7           anything?

8     A       The only thing I would have to do would be if  
9           they wanted me to, is to sign their time  
10          cards. Because if they were on duty, it was  
11          part of their duty. But if they were not on  
12          duty and they wanted to -- there were a lot of  
13          them, they were really conscientious. They  
14          wanted to show up and see what was going on.  
15          Then I would sign their time card saying they  
16          were here the hours that they claim.

17    Q       Other than that, you wouldn't make a note of  
18           it anywhere --

19    A       No.

20    Q       -- on your records or on the jacket?

21    A       No.

22    Q       Did you ever meet with officers at the  
23           station?

24    A       Rarely, but, yes.

25    Q       Would you ever meet with witnesses at the

1 station or any station?

2 A Generally, no. I mean, I'm trying to think of  
3 -- I watched some polygraphs through a two-way  
4 mirror. But I can't remember whether they  
5 were my case or whether it was a  
6 demonstration. I wanted to see how effective  
7 they were.

8 Q In relation to your approximately six months  
9 that you were working on the Andrews' case,  
10 did you ever meet with any officer at the  
11 station?

12 A I can't remember. No, probably not. But I  
13 don't remember meeting with any officer.

14 Q Okay.

15 A They would always come to our office.

16 Q How about any witness?

17 MR. CALDERONE: Objection, met any  
18 witnesses at the station?

19 Q Yeah, so in the approximately --

20 A No, I wouldn't --

21 Q -- six months or so.

22 A -- have gone to the station for any of these  
23 witnesses. They would come to us.

24 Q Would you have met with any of these witnesses  
25 some other location?

1 A No.

2 Q Did you observe any of the polygraphs that  
3 were conducted in relation to the Isaiah  
4 Andrews' investigation?

5 A No.

6 Q What do you think of polygraphs?

7 A What do I think of them?

8 Q Um-hum.

9 A They are pretty good.

10 Q Yeah? All right.

11 This Exhibit L clearly has a bunch of  
12 documents that had nothing to do with the case  
13 -- that weren't in existence at the time you  
14 were working this case, right?

15 MR. CALDERONE: Objection to form.

16 MR. LAMBERT: Objection.

17 A You mean the pleadings? I mean, the one  
18 volume that has all the appeals in them?

19 Q Yeah. I mean, I haven't looked at what is in  
20 Volume 1 versus Volume 2. But in general --

21 A Volume 1 is the records of the case and the  
22 documents.

23 Volume 2 is I have -- I had nothing to  
24 do with because that was all after the trial.

25 Q Volume 1 includes some appellate -- I think

1           there is appellate proceedings sporadically  
2           through here.

3    A       Yeah.

4    Q       But anyhow, we can agree this includes  
5           documents that weren't in existence in '74 and  
6           '75, right?

7                   MR. MENZALORA:       Objection.

8                   MR. LAMBERT:         Objection.

9                   MR. CALDERONE:       Objection to form.

10   A       I don't remember everything --

11                   MR. LAMBERT:         What includes  
12           documents that were in '74 and '75, what  
13           document?

14                   MS. GELSOMINO:       Exhibit L.

15   A       The larger of the two files?

16   Q       So, here, I am just going to hand these two  
17           for you -- to you.

18                   My understanding, based on what Ken has  
19           represented, and I think he's not lying about  
20           this, is that these two are Exhibit L, right?

21   A       Okay. The smaller of the two Exhibit L is --  
22           the bottom one that you are holding there, to  
23           my recollection is all appellate material, and  
24           I had nothing to do with that.

25   Q       Perfect.



1                   The first binder I will represent to  
2                   you does have some appellate.

3                   MR. LAMBERT:           Take a look at this  
4                   before you testify.

5                   THE WITNESS:           What? This whole  
6                   document here?

7                   MR. LAMBERT:           Just take a look at  
8                   it.

9    Q            I'm not trying to trick you or anything. I  
10                just want to know -- I mean, ultimately this  
11                Exhibit L includes stuff, as you just said,  
12                that wasn't around when you were on this case,  
13                right?

14               MR. CALDERONE:        Objection.

15               MR. LAMBERT:        Objection.

16   A            Flipping through here is the brief of  
17                appellee, that is -- I had nothing to do with  
18                that. Anything that you see that's in the  
19                form of an appeal, motion to transfer record  
20                from whatever, that's -- you know, I had  
21                nothing to do with anything.

22                What I had to do with was the basic  
23                trial. All the documents that indicate  
24                witnesses and evidence and investigation.

25   Q            Sure.

1                   MR. LAMBERT:           The problem is, look  
2                   at that, that's in there.

3    Q           My understanding is that's what you are  
4                   saying, right, Carmen, that the police  
5                   report --

6    A           Right. Not these, brief of appellees.

7    Q           Okay. Got it.

8    A           Anything that is formally typed out like that  
9                   would come from our office.

10   Q           Okay. So you have no idea where Exhibit L  
11                  came from, right?

12   A           Where what?

13   Q           This exhibit, these two binders, where this  
14                  came from, do you?

15   A           Ken Calderone gave it to me.

16   Q           Right. But in terms of where he got it or  
17                  where it was originated, you're not sure,  
18                  right?

19   A           I don't know how he put it together.

20   Q           You don't know when it was scanned or what  
21                  kind of documents were included in it?

22   A           Right.

23   Q           Okay. And you don't even know if it's  
24                  complete as to everything that is in the  
25                  Prosecutor's possession, right?

1 A I do not.

2 Q Was Charlie Laurie on this case before you  
3 were assigned to it?

4 A I do not believe so. I believe we both were  
5 together in Judge Sweeney's room at the same  
6 time when it came in.

7 Q Okay. In September of '74?

8 A Yes.

9 Q In terms of Exhibit L, you don't know if there  
10 are any items in police possession that are  
11 not included in this Exhibit L, do you?

12 MR. CALDERONE: Objection.

13 I'm sorry, I didn't -- did you say  
14 police possession?

15 MS. GELSOMINO: Yes.

16 MR. CALDERONE: Okay. Go ahead.

17 A I wouldn't know because I didn't compare this  
18 with anything else.

19 Q You have never looked at any police files in  
20 this case recently, like anything that came  
21 from the City?

22 A Not for 50 years.

23 Q Right. Okay. Well, in fact, ever, right? I  
24 mean, have you ever looked at files in the  
25 police possession in relation to this case or

1           did you just look at what was in the  
2           Prosecutor's file?

3    A       I look at all the files they gave us.

4    Q       Okay. That's what I thought. I just wanted  
5           to be clear for the record.

6                       While you are working this case with  
7           Charlie Laurie, do you know whether he did  
8           anything that is not reflected in the notes in  
9           this Prosecutor's file?

10   A       I do not.

11   Q       Did he ever tell you anything else that he was  
12           working on in relation to this case?

13   A       I don't remember talking to him about it. He  
14           may have, but I don't remember.

15   Q       But you know that you were keeping him  
16           apprised of what you were working on, right?

17   A       Yes. We would discuss the case regularly  
18           together. That would be the procedure.

19   Q       I would assume that you would make sure that  
20           he knew everything before you left six days  
21           before trial, right?

22                       MR. LAMBERT:        Objection.

23                       MR. CALDERONE:      Objection, form,  
24           foundation.

25   A       I don't remember sitting down talking to him

1           about it. I mean, we both knew the same  
2           thing. We both had the -- we worked from the  
3           same file. So he saw my markings on it. I  
4           can't remember what his writing looks like, so  
5           I don't know what notes he made.

6                       But I -- I don't remember saying, you  
7           know, I'm being transferred, you know,  
8           remember to do this. Because he was far more  
9           experienced. He was the lead Prosecutor on  
10          the case so I just apparently just picked up  
11          and left and went to my next duty station.

12    Q       Okay. Are you aware of this case ever being  
13              dismissed?

14    A       I don't remember that. Do not.

15    Q       Was it ever dismissed or reindicted while you  
16              were working on it?

17                       MR. CALDERONE:       Objection to form of  
18              that question. Go ahead.

19    A       Not that I can recall.

20    Q       If the case had been dismissed -- if any case  
21              was dismissed and reindicted, would those two  
22              different cases have different files based on  
23              the indictment?

24    A       They should, but I don't know how the  
25              recordkeeping was done at that time. I don't

1 know if it was resubmitted under the same  
2 number. I mean, I have had that done.

3 Q Have you also had it -- seen it over your  
4 career where there was one indictment. The  
5 first indictment would have its own file and  
6 then a different indictment would have a  
7 different file, right? That's what you told  
8 me earlier.

9 MR. LAMBERT: Objection.

10 A There were only, I think -- I can't think of  
11 more than two cases I had where I took back to  
12 the Grand Jury under the same number. So I  
13 didn't ask for a different case number. That  
14 the case would have been dismissed, and then I  
15 would have taken the same case back into the  
16 Grand Jury and under the same number  
17 reindicted.

18 Q Oh.

19 A At the different date, yeah. I would not  
20 create another file. I wouldn't.

21 Q Generally.

22 A I don't know what the procedure was.

23 Q Generally you wouldn't create another file?

24 A Right.

25 Q Okay. Were all of your actions in this case

1           consistent with the policies and practices of  
2           the Prosecutor's Office?

3     A       Yes.

4     Q       Were all of your actions in this case  
5           consistent with how you learned -- what you  
6           learned of the policies and practices through  
7           Chuck Laurie?

8     A       Yes.

9     Q       All right.

10           How are you doing? Do you want to take  
11           a break?

12    A       No, I'm fine.

13           MS. GELSOMINO:     Anybody need a break?

14    Q       I can take back that binder. I can move it  
15           out of your way.

16           I am going to hand you this other  
17           binder that has the exhibits that you went  
18           over with Ken.

19           MR. LAMBERT:       Can you identify that  
20           document?

21           THE WITNESS:       K1, L-1 dash 15. K-1  
22           and then L-1 through I guess, L-15.

23           MR. CALDERONE:     Can I see it for one  
24           second?

25           Just for the record, the front page of

1           the binder says Deposition Exhibits Carmen  
2           Marino K-1, L-1 to 15, but the binder only  
3           contains Exhibits L-1 to L-15.

4                     K-1 was marked in a previous depo.

5                     MS. GELSOMINO:     Oh, thank you for  
6           clarifying that, Ken. I didn't catch it.

7   Q       So, I just want to go through -- you went  
8           through all of these exhibits with Ken on  
9           Saturday. But I have a couple of other  
10          follow-up questions for you or clarifications  
11          just to make sure that I remember things  
12          accurately.

13                    So let's look at L-1. The first page  
14          is 111. Do you see that?

15   A       Yes.

16   Q       I have a hard time reading most of the words  
17          on this page.

18   A       You can't read this very well.

19                    MS. GELSOMINO:     Actually, Counsel,  
20          does anyone have a more legible copy of this  
21          page?

22                    MR. CALDERONE:     I do not.

23                    MR. MENZALORA:     I have what I got  
24          from Ken.

25                    MS. GELSOMINO:     Tim Puin, let me know



1           if you have a more legible copy of this page.

2   Q       My understanding, based on your testimony on  
3           Saturday, was that these are not your notes,  
4           right?

5   A       That's correct.

6   Q       Is anything on this page your note?

7   A       No.

8   Q       Do you know whose handwriting this is?

9   A       I do not.

10   Q      Do you recall ever seeing this in the file?

11   A      I don't recall specifically seeing any of  
12           these records in the file.

13   Q      Just looking at the next page, these are your  
14           notes, right?

15   A      They are.

16                   MR. CALDERONE:     For the record,  
17           you're referring to Bates stamped page 112?

18                   MS. GELSOMINO:     Yes, exactly.

19   Q      So on page 112 -- well, on a lot of pages  
20           throughout this exhibit binder, there is  
21           yellow highlighting.

22   A      That's not mine.

23   Q      Okay. I just wanted to be sure.

24   A      That is not mine, right.

25   Q      So any yellow that -- the yellow was on there

1           when you reviewed this document, right?

2     A       Right.

3     Q       But you didn't make it.

4     A       Wait a minute. The only thing that was on  
5           there was my writing. At the time I did this  
6           writing there was no yellow.

7     Q       Right.

8     A       So on the document I'm looking at right now,  
9           112, somebody else put a yellow mark on that  
10          after this was put in here.

11    Q       Okay.

12                   MR. CALDERONE: For the record, the  
13           yellow highlight marks in Exhibits L-1 through  
14           L-14, or whatever they are here are from me.  
15           When I was looking at that the documents, I  
16           made the highlighted mark.

17                   The documents in L-1 through L-14 came  
18           from Exhibit L. The original documents  
19           produced by the Prosecutor's Office, those  
20           documents do not have yellow highlight marks  
21           on them.

22    Q       Were the yellow highlight marks on these pages  
23           when you first reviewed them, if you recall?

24    A       Same as it is right here before me.

25    Q       All right.

1                   This isn't dated, right?

2     A           No.

3     Q           Page 112 doesn't have a date on it?

4     A           No.

5     Q           When we look at all your notes that we went  
6                   over on Saturday, they are all here,  
7                   Exhibit L-1 through L-4, I think. Yeah, L-1  
8                   through L-4 it looks like.

9                   Do you have any sense of  
10                  chronologically when you made these notes --

11    A           No.

12    Q           -- in relation to each other?

13    A           No.

14    Q           Just take a look at them and so if there is  
15                  anything about them now, you know, looking at  
16                  them as a group that there is any way to say  
17                  that you made one before the other?

18                  I doubt you can tell me what date you  
19                  made anything. But if there is any order, or  
20                  rhyme, or reason that you can come up with.

21                  MR. CALDERONE: Objection, foundation.

22                  MR. LAMBERT: Objection to compound  
23                  question.

24    A           The only thing I can suggest that they were  
25                  probably, without any degree of certainty,

1           probably the trial preparation notes.

2                       In other words, I was getting ready for  
3           trial, and this is what I wanted to bring out  
4           at trial with the approval or consultation  
5           with Mr. Laurie.

6                       MR. CALDERONE:       Just note for the  
7           record, as the witness was looking at the  
8           exhibits, that he did not look at every page  
9           in Exhibit L-1 through L-14, 13.

10    Q       Okay. And looking at these, you can't be sure  
11           if you made them in the September or if you  
12           made them in February, right?

13                      MR. LAMBERT:       Objection. Looking at  
14           what? Looking at these --

15    Q       The same exhibits in this document that we're  
16           still looking at. So your notes in front of  
17           you.

18    A       Right.

19    Q       Is there any way for you to tell whether you  
20           made any of them toward the beginning of the  
21           time that you were working on this file, or  
22           towards the end of the time, September to  
23           February?

24    A       No. Since they are not dated, no.

25                      MR. CALDERONE:       Note for the record

1           the witness is looking at page 112, Bates  
2           stamp page 112.

3       A       I'm flipping through 127, 128. They look like  
4           trial prep notes rather than anything I would  
5           have made at pretrial.

6                   This is extensive. I wouldn't make  
7           these notes at pretrial.

8       Q       Okay.

9       A       I would just get an idea of whether or not the  
10          defendant has any prospects of pleading  
11          guilty. Almost nothing happens at the first  
12          pretrial in a homicide case anyhow.

13                   So when they start getting extensive  
14          notes like that, then the prosecutor is honing  
15          in on the trial date and getting ready for the  
16          trial.

17                   MR. CALDERONE:     Note for the record  
18          that the witness has not looked at all the  
19          notes, on all the pages.

20                   THE WITNESS:       Right now I have not,  
21          right. I just started -- I just looked at  
22          some of them.

23       Q       And it seems to me, correct me if I am wrong,  
24          Carmen, you have been looking at these like  
25          L-1 through L-4, which is the exhibits that

1           are just your notes, not the notes you took on  
2           the reports?

3    A       Right. Right. And that one page that shows  
4           the witness subpoena.

5    Q       Sure. That is definitely you preparing for  
6           trial, the witness subpoena which is in L-4,  
7           right?

8    A       Right.

9    Q       So your notes are in that. I was misspeaking.  
10           I guess your notes are in L-1 to L-3.

11   A       Some of these notes have a date on here I just  
12           noticed.

13   Q       Okay. So, yeah, there are couple of dates on  
14           there, which I'm going to go over with you.

15                 But let's go back to 112. Do you  
16           recall how many times you spoke to Betty  
17           Worthy?

18   A       I do not.

19   Q       When you spoke, do you remember why you wrote  
20           down that she is a good witness?

21   A       I can only interpret it, that I read what she  
22           said, compared to what the report said the  
23           defendant said, and she didn't have a reason  
24           to lie. There was no relationship between the  
25           two of them. There was no animosity. There

1           was no reason for her to say something other  
2           than the truth. But that's just a common  
3           sense look at what I wrote down here. That's  
4           why I would write it that way.

5    Q       You testified the other day when you were  
6           talking to Ken about this page 112, that you  
7           had a question about Betty Worthy's testimony  
8           from the time you read the file and that's why  
9           you made these notes?

10   A       A question?

11   Q       Yes.

12                   MR. LAMBERT:           Objection, form of  
13           the question.

14                   MR. CALDERONE:       Objection,  
15           misrepresents testimony.

16   A       Do you want me to answer or what?

17                   MR. CALDERONE:       Yeah. Go ahead.

18   Q       Yeah. Go ahead. When you read --

19   A       The question in a sense that I focused on her  
20           as a witness that we were probably going to  
21           call. I wasn't questioning her veracity or  
22           anything.

23   Q       I see. So you wanted to follow-up on it?

24   A       Sure. She would be one of the witnesses that  
25           we would call in for consultation before

1 trial.

2 Q Did you learn anything from your conversations  
3 with her in addition to -- that was different  
4 than what you read in her statement?

5 A I don't remember that at all.

6 Q Did you -- at the time that you spoke to her,  
7 were you aware that she made multiple -- more  
8 than one statement to the officers?

9 MR. CALDERONE: Objection to the form  
10 of that question.

11 MR. MENZALORA: Objection.

12 A Not to my memory. I just note what I have  
13 written down here.

14 MS. GELSOMINO: Ken, what is your an  
15 objection to form on this?

16 MR. CALDERONE: Can you read the  
17 question back?

18 Oh, statements. You said she made a  
19 statement, and I think your question is  
20 confusing notations that officers made in  
21 police reports, as compared to a statement  
22 that Betty Worthy wrote herself.

23 MS. GELSOMINO: Fair enough.

24 Q When you spoke to Betty Worthy on the phone,  
25 were you aware that she had spoken to officers



1 on more than one occasion?

2 A I don't recall talking to her on the phone.  
3 I'm just going by my notes here.

4 Q Okay. Well, at any point did you question her  
5 about the changes -- the differences between  
6 the first time she talked to the police  
7 officers and the second time?

8 MR. LAMBERT: Objection to the form  
9 of the question.

10 MR. MENZALORA: Objection.

11 MR. CALDERONE: Presumes facts not in  
12 evidence.

13 A At this time I don't -- I don't recall talking  
14 to her in person at all, or any of the  
15 witnesses. I am just going on what my notes  
16 have here.

17 Q When you say in person, does that also include  
18 on the phone?

19 A Yes, it would, right. It would include  
20 talking to her on the phone or talking to her  
21 in person. I don't recall talking to her on  
22 the phone. I don't recall her sitting in my  
23 office and talking to her.

24 Q Let's go to L-2.

25 Well, actually, first of all, I'm

1           sorry, before I move on, I meant to ask you a  
2           question about 113, which is the last page in  
3           L-1, or second to the last page, I guess.

4                   I don't recall your testimony about  
5           this from Saturday. This is not your writing  
6           on this page, right?

7   A       It is not. Either a letter or whatever that  
8           is, a letter that John T. Corrigan wrote.  
9           Whoever wrote on the bottom, advise Detective  
10          Hubbard to contact this woman.

11   Q       Do you recognize those initials?

12   A       I can't make them out. I don't know if it is  
13          J.D. or J.T. or John T. Corrigan. It could be  
14          J.T.C. But I can't remember what  
15          Mr. Corrigan's initials look like.

16   Q       So this was in November of '74 when you were  
17          working on this case. Would this have come to  
18          your attention and you just don't remember it?

19   A       I don't. It would have been put in the file.

20                   Let's see, for a trial that's coming up  
21          in March, we wouldn't have been working on it  
22          -- we would not have been working on the case.  
23          I would not have been working on the case in  
24          November. That's, you know, just way too far  
25          in advance. Too many other cases coming up.

1 Q So other than just doing like pretrials or  
2 something?

3 A No, trials. Pretrials are nothing. You just  
4 read the case and try to bargain it to a  
5 conclusion.

6 But for trials, unless it's an extended  
7 case that you're doing an investigation on,  
8 and which I was not on this case, we would not  
9 have been working, prepping for trial on  
10 November 14th.

11 Q Okay. But the file would have been in your  
12 possession, right?

13 A The file would have been in the file room.

14 Q Oh.

15 A Once it comes to us, we only use it for that  
16 purpose, the pretrial. Then it goes right  
17 back to the record room.

18 Q Oh, thank you for clarifying that. I thought  
19 it remained in your possession.

20 A No. Even if you are going to do the trial,  
21 you sent it back until you gauge how much time  
22 you need for trial. Usually you know what you  
23 are going to bring in, you know, which  
24 witnesses you are going to call.

25 So when you get closer to that trial

1           date then you start working on it. Like you  
2           see the notes start increasing. So you start  
3           working on it more and more. But I wouldn't  
4           work on a trial in March three or four months  
5           ahead of time.

6   Q       When would you start to work on the trial  
7           prep?

8   A       When I would -- these trial dates that the  
9           judges give are more prospective than they are  
10          definite. So there are so many trials that  
11          they set. Like some judges would set two and  
12          three trials a day, and you'd have to send out  
13          two or three trials a day and be ready or he  
14          would go to his next one. I mean, they were  
15          really on us at that time.

16                 So, this one, maybe two weeks in  
17          advance at most. That would be enough time  
18          for me. I would have talked to the person,  
19          all the witnesses by phone. The detectives  
20          would be aware that we're going to trial for  
21          sure. And then we would start gearing up for  
22          trial.

23   Q       And then when you did start to work on a case,  
24           knowing that the trial date was coming up,  
25           would you keep the file from the record room

1 in your office during that period of time?

2 A I would at that time, yes, that would stay  
3 with me.

4 Q Okay. Do you know whether there was ever any  
5 follow-up with anyone who wrote a letter to  
6 the file?

7 A I do not.

8 Q Did you ever talk to Hubbard about this?

9 A I don't recall talking to him at all.

10 Q Do you recall ever seeing this letter before  
11 Ken presented you with Exhibit L and these  
12 documents?

13 MR. CALDERONE: To be clear on the  
14 record, you're speaking about the document on  
15 Bates stamped page 113?

16 MS. GELSOMINO: Right.

17 THE WITNESS: Yes.

18 A No.

19 Q Then 114, is that your writing?

20 A No.

21 Q Do you know whose that is?

22 A I do not.

23 Q Let's go to L-2. If you look on page 128 of  
24 L-2, in the middle of the page next to -- this  
25 is all your handwriting, right?

1 A It is.

2 Q Next to Linda Cloud it says, C.K. will relief  
3 office, Cloud and Worthy, I think that's what  
4 it says; is that accurate? Do you see that?

5 A It says check with relief office.

6 Q Check. That is what I was going to ask you  
7 what does that mean.

8 What is the relief office?

9 A We used to have a file of poor relief fraud.  
10 In other words, if you were on relief of some  
11 type, public money, what would happen, someone  
12 would get a job and forget to tell that they  
13 did -- usually this is what would happen. Or  
14 they would deliberately keep the relief money  
15 and do the job. You can't have both at the  
16 same time.

17 So automatically they would run through  
18 if there was a conflict between a person  
19 taking relief money and working the same job,  
20 another job privately, that was fraud.

21 Q Okay.

22 A Those used to come in 40, 50, 100 a month.

23 Q Right.

24 A And they were routinely just sloughed off  
25 misdemeanors. And eventually we got rid of

1 prosecuting them. If a person is poor enough  
2 to be on relief, then we're going to take a  
3 case to court that nothing is going to happen  
4 on. So that was that.

5 So sometimes you can get information  
6 about the whereabouts of somebody or someone  
7 who has that person's file as the public  
8 official in charge of that person's relief  
9 file, and you might find information. So I  
10 said check with the relief office, Cloud and  
11 Worthy.

12 Q Did you do that?

13 A I'm just going on what I have here. Not to  
14 me. I'm not going to check on them. This  
15 goes to the detective. That's their work.

16 Q Oh, I see. Well, did you tell the detectives  
17 to go check with the relief office about  
18 Worthy?

19 A I don't recall that. You know, it is not that  
20 I couldn't pick up the phone and do it. You  
21 know, I might have done that.

22 I'm just saying, if I said something  
23 like that, it depends on how jammed up I was.  
24 If I had the time, I would make the telephone  
25 call myself. If not, I would call the

1           detective and tell him to do it.

2     Q       Okay.

3     A       But I don't recall what I did there. But  
4           that's -- that's the essence of what that  
5           means. Per relief office. You go to the  
6           relief office and find out what their  
7           background is, or is there anything on those  
8           witnesses.

9     Q       Well, do you know whether any information was  
10           received from the relief office in this case  
11           regarding Cloud and Worthy?

12    A       I do not.

13    Q       Would you expect to see some kind of a report,  
14           a follow-up report, about Cloud and Worthy if  
15           anything came from the relief office?

16    A       I would not expect it. It would be rare.  
17           Unless they had some information, so -- and  
18           then it might. Even then, they might not  
19           write up the report. They would just say,  
20           yeah, call them, and they will tell you what  
21           they know. Things were very informal. The  
22           idea was to get the information, not to  
23           document it.

24    Q       Wouldn't documenting information from the  
25           fraud office about key witnesses in this case



1 be important?

2 A Sure, it would be important.

3 Q Do you agree with me that Cloud and Worthy  
4 were the key witnesses in this case?

5 MR. CALDERONE: Objection, form,  
6 foundation.

7 A I don't remember what significance they were.  
8 I mean, just by my notes here why I have them  
9 subpoenaed.

10 Q Okay. Do you recall anything about what they  
11 said?

12 A Only what I remember without -- without  
13 remembering which witness said it. But I'm  
14 guessing it was one of these two about  
15 observing the defendant coming out of the  
16 motel room with the laundry bag and put it in  
17 the trunk and whatever else. That was the  
18 essence of what I remember what their  
19 testimony would have been.

20 Q And that is pretty significant evidence  
21 against Mr. Andrews?

22 A It would be from my standpoint, yeah.

23 Q Yeah, I would think so.

24 Do you know whether Betty Worthy was  
25 facing any charges of fraud or anything

1           related to fraud at the time that she was  
2           presented as a witness?

3    A       I do not.

4    Q       Did you ever talk to her about any of the  
5           fraud charges against her?

6    A       I don't recall --

7                   MR. LAMBERT:           Objection to the form  
8           of the question.   The fraud charges against  
9           her?   You mean the ones that don't exist,  
10          those fraud charges?

11   A       I don't recall talking to her at all.   I don't  
12          recall talking to any of the witnesses.   But I  
13          must have.

14   Q       Sure.

15   A       Because I know it would have been my  
16          procedure.

17   Q       All right.   So then just for the record, as to  
18          Betty Worthy, do you recall any -- ever  
19          getting any information about any charges  
20          pending against her, or being investigated  
21          against her?

22   A       I do not.

23   Q       Do you recall either of them having anything  
24          about either of them engaging in prostitution  
25          or sex work?

1 MR. MENZALORA: Objection.

2 MR. CALDERONE: Objection. Who are  
3 "they"?

4 Q Betty Worthy or Linda Cloud.

5 A I do not.

6 Q Do you know whether any of the officers  
7 involved in investigating this case made any  
8 promises to Cloud or Worthy?

9 MR. CALDERONE: Objection,  
10 foundation.

11 A I never heard of any promises being made to  
12 anybody in the whole case.

13 Q Do you know whether -- some of this is just  
14 for the record.

15 Do you know whether any officers  
16 involved in the investigation of this case was  
17 aware of criminal charges being investigated  
18 or pending against either Betty Worthy or  
19 Linda Cloud?

20 MR. CALDERONE: Objection to  
21 foundation.

22 A I don't recall it.

23 Q Okay. So I have some questions about this FBI  
24 Agent Kirk.

25 A Tom Kirk, yes.

1 Q Yeah. Did you work with Kirk, Tom Kirk,  
2 before your worked on the Isaiah Andrews'  
3 investigation?

4 A I worked with him on the organized crime cases  
5 related to Nardi and Danny Greene.

6 Q So what was his involvement in this  
7 investigation, in the Andrews investigation?

8 MR. CALDERONE: Objection,  
9 foundation. Go ahead.

10 I just want to make it clear -- just go  
11 ahead. Objection to foundation.

12 Q He objects for the record.

13 A Now?

14 Q You still answer the questions after he -- we  
15 just have to give him time to make the  
16 objections for the record.

17 MR. CALDERONE: Yeah. Sarah, my  
18 issue is this. The FBI agents had their  
19 issues. The Cleveland Police Department had  
20 their investigation. Your question makes it  
21 seem like the FBI agent was involved in the  
22 City of Cleveland's investigation, which I  
23 don't believe is accurate.

24 MS. GELSOMINO: Well, that's why I am  
25 asking him that.

1 Q My question is, did Kirk have any involvement  
2 in this investigation?

3 MR. CALDERONE: That's a good  
4 question.

5 A If his name is down here, there was something  
6 that called my attention to him.

7 Q That's what I thought.

8 A As I -- I think I may have mentioned the last  
9 time, the organization of Blacks Back to  
10 Africa would have been the type of  
11 organization that the FBI would have focused  
12 on as subversive.

13 Q Right.

14 A Whether or not it was, because it was arcane,  
15 and they were trying to figure out what they  
16 were doing.

17 So I'm guessing, with a pretty good  
18 guess, that Tom Kirk was probably involved in  
19 that type of surveillance and was letting us  
20 know that background because we would --  
21 Rowell and Hubbard, the chief agent, detective  
22 on the case, would not have had access to that  
23 type of information. Unless they sat down  
24 with a witness and said, I'm with Blacks Back  
25 to Africa. And there is nothing in the file

1           that says that.

2                       So that information must have come to  
3           us from the FBI, and that's why his name is  
4           down there. Is he still alive? Is he still  
5           around? Anybody?

6   Q       I don't know.

7   A       You ought to look that up.

8   Q       I will.

9                       In the current -- or the recent  
10          reprosecution of Isaiah Andrews there was an  
11          FBI agent involved in the investigation  
12          working with the Cleveland Police Department.

13                      MR. LAMBERT:       Objection --

14   Q       So was there anything like that back at the  
15          time that you were working on the Isaiah  
16          Andrews' investigation? Was there any FBI  
17          agent or federal involvement in any way with  
18          this investigation?

19                      MR. CALDERONE:     Objection to form.

20   A       No. To my recollection we had no intention of  
21          calling any FBI agent.

22   Q       Other than giving you information about this  
23          Blacks Back to Africa thing, did he give you  
24          any -- did he or any other FBI agent give you  
25          any other information about Isaiah Andrews or

1           this investigation?

2       A       No. And I'm presuming that's why his name is  
3               down there. I could be wrong. But I think  
4               I'm 95 percent sure that is why his name is  
5               there.

6       Q       So the Blacks Back to Africa thing was new to  
7               me on Saturday. I have never heard of that in  
8               relation to this case.

9                       Do you know why there are no reports  
10              that say anything about that?

11      A       I don't. The --

12                       MR. LAMBERT:            You don't.

13      A       Yeah.

14      Q       You can keep going. Finish your answer.

15      A       I don't. I'm not sure this is the type of  
16               case where the FBI would have written a report  
17               and given it to us, even if they had reports  
18               on this.

19      Q       Why?

20      A       There is nothing in the file probably because  
21               they didn't give us anything. There was a  
22               phone call or something. That's why the  
23               telephone number is down here.

24      Q       Now you had a relationship with Tom Kirk from  
25               other investigations. Do you recall in this

1 case if you called him up and said do you have  
2 anything on this, or something like that?

3 A No, I wouldn't have done that. At that time  
4 there was a real distance between us and the  
5 FBI. We handled our cases. They handled  
6 theirs.

7 When I started in the organized crime  
8 cases, then we were in each other's bailiwick.  
9 We did the trial work, and they did the  
10 investigation.

11 Q Okay.

12 A So that's when we -- that's when we became  
13 colleagues, when he started working regularly  
14 with us.

15 This is just a phone call to let us  
16 know something.

17 Q Okay. So you think he reached out to you?

18 A Yeah, I don't know who this guy is. At that  
19 time I didn't know who Kirk was.

20 Q When was the Danny Greene stuff, or the other  
21 mob work that you worked on?

22 A Danny Greene was killed in October of '77 and  
23 we tried the cases in '78.

24 Q Was that your first organized crime case?

25 A No. He had been bombed the first time and



1 lived. Another prosecutor and I, John  
2 Jackson, since deceased, worked on it. And I  
3 think we got split up again somehow. John  
4 tried. One defendant got convicted. Tried  
5 the second defendant, got acquitted. But that  
6 was when Danny Greene lived.

7 This was -- when I had them, that was  
8 the second bombing that killed him.

9 Q Okay.

10 A Okay. Then we got into the organized crime  
11 aspects of it.

12 Q When was the a first bombing?

13 A Let's see. The second one was October of '77.  
14 It might have been I don't think more than two  
15 years prior. It might have been '75, late  
16 '75, Fall of '75 or something like that. He  
17 got bombed at his house on Waterloo.

18 Q So I imagine -- I mean, just tell -- at the  
19 time that Kirk or an FBI agent called you, did  
20 he give you this piece of information about a  
21 potentially subversive group, did you make any  
22 notes about it?

23 MR. LAMBERT: Objection to the form  
24 of the question.

25 MR. CALDERONE: Objection, form.

1     A       I must have remembered -- it's fairly accurate  
2             getting it from them. I don't remember the  
3             telephone call.

4             But I'm just saying, I'm hypothesizing  
5             here that that's the only way I could have  
6             gotten it because Cleveland didn't have that  
7             information. They weren't involved in that  
8             kind of investigation.

9             So when I saw an FBI agent's name here  
10            -- I don't remember Tom Kirk. I mean, I  
11            remember him when we worked together on the --  
12            a few years later on the organized crime  
13            cases. But I don't remember this.

14            This was my note here, and I am --  
15            let's see, it says, FBI Agent Kirk, defendant  
16            girlfriend in Painesville. I don't know what  
17            that means. Unless this guy had another  
18            girlfriend in Painesville.

19            But I don't know who this guy Kirk is  
20            at that time. I never met him before. And I  
21            don't remember any specific conversation with  
22            him.

23    Q       And don't remember making any notes of any  
24             information that he gave to you?

25    A       I do not. That stuck in my mind.

1 Q Right.

2 Did you yourself or did you do any  
3 further investigation into that potential  
4 connection, or have any officers do any  
5 investigation into that potential connection?

6 A Not that I can recall.

7 Q Why not?

8 A Because we were concentrating on the case  
9 itself, proving the crime, and proving the  
10 defendant committed the crime.

11 Q So my understanding, based on how you were  
12 talking about this before, was that this was a  
13 potential motive to kill her, right?

14 A Yes.

15 Q Did you investigate any potential motives of  
16 Isaiah Andrews?

17 A Specifically, I don't remember. But that was  
18 the motive. And this was probably the  
19 information that made the motive more  
20 apparent.

21 Q Okay.

22 A Because I never heard of Blacks Back to  
23 Africa.

24 Q Right. Okay.

25 Other than this conversation with Kirk

1 giving you a potential connection to Blacks  
2 Back to Africa and a motive, did you get any  
3 other information about this from anyone?

4 A No. Not that I recall.

5 MS. GELSOMINO: Let's take a quick  
6 break.

7 THE VIDEOGRAPHER: We're off the record  
8 at 11:58.

9 (Recess taken.)

10 THE VIDEOGRAPHER: We're back on the  
11 record at 12:25.

12 BY MS. GELSOMINO:

13 Q Thank you. I just turned binder 2 of  
14 Exhibit 1 to page 393.

15 A 393, right.

16 Q Are any of the -- is any of the writing on  
17 this page yours?

18 A No.

19 MR. CALDERONE: For the record,  
20 binder 2 of Exhibit L?

21 MS. GELSOMINO: Thank you. What did  
22 I say?

23 MR. CALDERONE: Exhibit 1.

24 THE WITNESS: That's 2 of 2.

25 Q Thank you for -- exhibit -- is any of the

1 writing on this page yours?

2 A No.

3 Q Do you recognize any of it?

4 A I do not.

5 Q You don't know who did that?

6 A No.

7 Q Have you ever seen this before?

8 A No.

9 Q Okay. Can you go to the page 395, please.  
10 Actually 395, 396, 397, and 398 to me look  
11 like they are related.

12 A They are what?

13 Q Somehow related. I'm wondering if you can  
14 tell me what these are.

15 A This is the court's form for the prosecution  
16 of a criminal docket. This is what -- how did  
17 you get this? It must have come out of the  
18 judge's file I'm guessing.

19 Because if you look down there, you see  
20 Sweeney's name, the verdict, the page numbers,  
21 and stuff like that. This comes out of  
22 probably a combination of the court and the  
23 Sheriff's Office.

24 Q Okay. So this is not your file jacket?

25 A No.

1 Q Or not the Prosecutor's file jacket?

2 A We would never have this in our file.

3 Q Okay. Is any of this -- I probably know the  
4 answer to this now, but is any of this writing  
5 yours?

6 A No, none of it is.

7 Q Do you put a name anywhere, or initials, or  
8 anything that would indicate when you worked  
9 on this case? Take your time to look at it.

10 Also, if it is helpful to you to take  
11 these pages out of the binder, feel free to do  
12 that.

13 A That's all right.

14 You know, I'm scanning this. Because  
15 there is absolutely no reason my name or  
16 initials would be on this. I would never see  
17 this.

18 Q Okay.

19 A This is how they record the verdict guilty --  
20 the jury is sworn in, the fees that go out.  
21 These are judge's notations either made by him  
22 or his bailiff.

23 Unless I'm missing something, I don't  
24 see my name anywhere.

25 Q Yeah, that's what I'm seeing too. I don't

1 even see any notations of pretrials on here,  
2 at least I can tell would be a pretrial.

3 Do you see anything that you think  
4 would be a pretrial?

5 MR. CALDERONE: Objection.

6 A No. The pages are incomplete.

7 Q Yeah, they are difficult to read, for sure.

8 A Yes, it is extensive when it goes into '92 and  
9 everything.

10 But going back to the first page -- you  
11 know, I don't recall that they would ever put  
12 the prosecutor's name on this.

13 Q Okay. So you think this is a document from  
14 the Court, not necessarily from the  
15 Prosecutor. Not a document created by the  
16 Prosecutor?

17 A No, it would not. We wouldn't -- I mean, I  
18 have seen pages like this before. They are  
19 sort of on a, not yellow, but a vanilla type  
20 background. And these are court entries as  
21 they make their decisions as the verdict comes  
22 in and then the appeals start or whatever else  
23 they follow-up in noting what's happening with  
24 the case.

25 Q Can you turn to page 270. I'm not sure if

1           that's correct.

2                   No, you know, what. Page 270. So I'm  
3 going to hand you binder 1.

4                   Page 270 in Exhibit L, do you know what  
5 this is?

6   A       Yeah, that's our file. That's the front page  
7 of page our -- that's the front of our folding  
8 file, our letter-type file.

9   Q       And on the top of this one -- I'm sorry, where  
10 it says Court Number 17902.

11   A       Right.

12   Q       What is that number?

13   A       That's the case number. That's our case  
14 number.

15   Q       And then this says duplicate file, original  
16 file on site. It looks like it says that.

17   A       I think it says inside. Sometimes they get  
18 handled so much, they literally fall apart.  
19 They are dog-eared. The file itself -- the  
20 paper swells and it gets -- starts to get  
21 shredded. So what they will do is they just  
22 take that file, fold it in half and put it in  
23 this file, a new fresh piece of cardboard or  
24 whatever it made out of, heavy paper.

25   Q       Okay. That makes sense. Thank you.



1                   Can you turn to page 4. Flip all the  
2                   way to the beginning of that binder, please.

3     A           Page 4 of this, like way back here?

4     Q           Back at the beginning.

5     A           That's what our file generally looked like.

6     Q           Okay. So, is this, on page 4 of Exhibit L,  
7                 this would be the file jacket --

8     A           Yes.

9     Q           -- that you told me about?

10    A           This would be the original file jacket. This  
11                 is the way they looked regularly.

12    Q           Is your handwriting anywhere on here?

13    A           Okay. I'll go through so you will know what  
14                 my handwriting.

15                 On the left side where you see Isaiah  
16                 Andrews, all of that, none of that is my  
17                 writing. It is sort of like half of the page  
18                 to your left.

19    Q           Okay.

20    A           On the right side where it ended up John T.  
21                 Corrigan, Prosecuting Attorney, you start down  
22                 from there. When you see a circle with a  
23                 star, someone had written witness something  
24                 not to be given something under any  
25                 circumstances.

1                   Now I boxed that in and put a star  
2                   there calling it to the attention to me for  
3                   some reason, and to anybody else that would  
4                   have the trial, have the case.

5                   Below that is Trial 3-3-75. That is my  
6                   handwriting. To the left of where I  
7                   originally started it says, FBI 522-1400,  
8                   extension 271. I don't know for sure, but I'm  
9                   guessing that's this guy Hayes who must be an  
10                  FBI agent. Follow me? I wrote the name down  
11                  there and something. I can't read it now  
12                  because it's not that clear. Something ends  
13                  in H -- it looks like something O'Brien and  
14                  something H. Hayes, H-A-Y-E-S.

15       Q           Mike O'Brien maybe?

16       A           Could be.

17                  FBI 522-1400 extension 271, J.C.  
18                  Williams 696-1268, then the week or work,  
19                  whatever, VA. Then there is an address.  
20                  That's all mine.

21                  I probably circled Hubbard, wrote in  
22                  John Scott and Eddie Wolf. And I don't know  
23                  for sure if I wrote 1669 Caroline Avenue, East  
24                  Cleveland 681-1950. I might have. But I  
25                  definitely wrote in John Scott and Eddie Wolf.

1 Q Do you know who John Scott is?

2 A No.

3 Q Do you know who Eddie Wolf is?

4 A No.

5 Q Do you know who J.C. Williams is?

6 A No.

7 Q Do you know anything about this Mike O'Brien

8 maybe or what we believe to say Hayes?

9 A I don't know. I don't recall their names.

10 Q Now you think that you starred this piece of

11 writing here on the right?

12 A I'm the only one that did stuff like that. I

13 mean, messy stars and circles.

14 Q Well, do you know what Chuck Laurie's manner

15 of marking up files was?

16 A No, I don't.

17 Q Do you know what Ron Adrine's manner of

18 marking up files was?

19 A No.

20 Q Do you know what Joe Gibson's manner of

21 marking up files was?

22 A No.

23 Q How about John T. Corrigan, do you know how he

24 wrote up files -- marked up files?

25 A I do not.

1 Q This seems to be a note that you think that  
2 you boxed in which had the abbreviation J.T.C.  
3 under it. I'm assuming that's John T.  
4 Corrigan?

5 A Yes, that's what I would say.

6 Q Can you read that?

7 A We're trying to probably protect a witness.  
8 Witness address not to be given under -- given  
9 something under any circumstances. So -- so  
10 you know their procedure, someone must have  
11 gone to him and rather than us go to the Court  
12 to certify that this person needs protection  
13 and we're not going to give that name to the  
14 defense counsel, well, you can do that,  
15 certify for that person's protection.

16 Once in a great, great while you would  
17 see a note that someone went to Mr. Corrigan  
18 and said, this witness is afraid. I'm giving  
19 you an example here. This witness is afraid.  
20 We don't want the address of this witness  
21 given out. So he would write something like  
22 this. That is what he did there. And I  
23 highlighted it so that no one would ever miss  
24 that and not give -- accidentally give their  
25 name out in discovery with the address on it.

1           He's telling don't give out the address. Some  
2           -- the easier way to do it, don't give out  
3           witness's name and certify to the Court that  
4           the witness needs protection. But this is his  
5           writing. I'm presuming that's his writing.  
6           He's the only one that would order us to do  
7           something like that.

8    Q       Do you recall in this case, like actually have  
9           a memory of anything related to an issue with  
10          a witness --

11   A       No.

12   Q       -- being threatened or anything?

13   A       No.

14   Q       Okay. When you reviewed the exhibit, did that  
15          refresh your recollection at all in terms of  
16          any potential witness intimidation?

17   A       No. I don't recall us having a problem with  
18          that at all.

19                You can see when it is dated. It is  
20          dated in December.

21   Q       Right. Which is when you were on the case,  
22          right?

23   A       I was still in that room, yes.

24   Q       Okay. Do you recall any issues at any point  
25          with witnesses not showing up for trial?

1     A       I do not.

2     Q       Okay.  So you've indicated previously today  
3             that this file jacket is where you would mark  
4             pretrials, right?

5     A       Right.

6     Q       I don't see anything on here about a pretrial,  
7             do you?

8     A       No.

9     Q       Do you think there is another file jacket,  
10            since this one is clearly worn, or somewhere  
11            else --

12    A       I doubt it.

13    Q       -- or maybe the back of it or something,  
14            somewhere else you would have actually noted  
15            the pretrials as you testified?

16    A       No.  The pretrials, they could be noted almost  
17            anywhere.  You see where I have a trial date,  
18            where it says 3-3-75?

19    Q       Sure.

20    A       Well, I would write that stuff.  But there is  
21            a formal area.  You can look on the left side  
22            that says trial date and assistant prosecutor,  
23            that would probably be filled out when you  
24            went to trial.

25    Q       Okay.

1 A I would write a trial date in there, because  
2 it's tenuous when you are going to trial.

3 In fact, you don't start working on  
4 these cases until you're certain the case is  
5 going to go to trial and that you are going to  
6 be trying it, so I can't remember what I would  
7 have written -- I'll tell you what, if you can  
8 cross-reference this case with the Court's  
9 document, then you would find out on what day  
10 Judge Sweeney set this case for trial in  
11 March. And I have no idea when he did that.

12 Q Okay. So I understand, you can write notes  
13 anywhere you want. But you don't see anything  
14 on here that indicates any date of any  
15 pretrial?

16 A Nope.

17 Q Okay.

18 A No.

19 Q Do you think that -- this looks like it's cut  
20 off to me, you know, like at the top.

21 A Well, you don't see the words. You don't see  
22 the word charge. I mean, it would have to --  
23 you would have to go a little bit that way.

24 Q Right.

25 A And you don't see the finished "court." All

1           you see is U-R-T.

2       Q       Right. Is there anything else as you look at  
3           this, based on your recollection of what these  
4           file jackets looked like, that you think is  
5           missing from this page, any other sections?

6       A       No, all my stuff -- all my notes would have  
7           been written like they are now. There is not  
8           room to the left of these of what is cut off  
9           here for us to make any marks.

10      Q       So like is this, like where the word court --  
11           let's guess, assume that the word court is  
12           complete and the word charge is complete, is  
13           that the end of the jacket on the left?

14      A       It is.

15      Q       Can you turn to page -- I'm going to try to do  
16           this in order for you. Go to page 118,  
17           please.

18                   Let's do to 117 -- well, 118 is in the  
19           top right. 117, I think, is -- let me know if  
20           I can help you.

21      A       I got it.

22                   What did you say, 118?

23      Q       Go to 117. That one actually. It's upside  
24           down.

25      A       Right.



1 Q My only question for you on this is, did you  
2 prepare this?

3 MR. CALDERONE: Objection. Asked and  
4 answered. It's part of Exhibit L-4.

5 MS. GELSOMINO: Is it the same copy?  
6 Because there is multiple copies of this.

7 MR. CALDERONE: Yeah, it's L -- yes,  
8 it is. It is page -- the second page of  
9 Exhibit L-4 is basically on page 117.

10 Q Well, remind me, is this your handwriting on  
11 here?

12 A Which one are we looking at?

13 Q On 117.

14 A 117, no, it's not. But let me think here.

15 Q Do you know whose handwriting that is?

16 A No.

17 Q Have you ever seen it before?

18 A I don't remember seeing -- I don't remember  
19 seeing this one. This is my writing, Exhibit  
20 116. That is a request for a subpoena being  
21 drawn up for these witnesses. This is what we  
22 would get back from the secretary who drew  
23 them up. You follow me?

24 Q Yes.

25 A She would take our handwritten and then type

1 out a precipe for subpoenas to be sent out.  
2 And then this goes over to the Sheriff's  
3 Office. So I -- none of the handwriting on  
4 Exhibit 117 is mine.

5 All of the handwriting on Exhibit 116  
6 is mine.

7 Q Okay.

8 A And I don't know what date I did this.

9 Q No problem. Thank you for reminding me about  
10 that.

11 Go to 118, please.

12 A 118?

13 Q What is this?

14 A This is response for discovery. That's what I  
15 was talking about before. How you would check  
16 off things and then add to that all the  
17 documents that the defense attorney is  
18 entitled to.

19 Q Okay. That's what I thought. Is this one  
20 that you prepared?

21 A No.

22 Q Do you know who did this?

23 A I do not. Let me see if there is a name on  
24 here.

25 No, I don't know who did this.

1 Q Down at the bottom left it says -- some  
2 marking. I can't understand it. It says  
3 11:00 a.m. to 2:00 p.m. Can you understand  
4 that?

5 A I don't know what that means.

6 Q In this case did you prepare a response for  
7 discovery under Rule 16?

8 A I don't recall.

9 Q Now you previously said that you would -- as  
10 soon as you started working a case, the first  
11 thing you would do is start to respond to  
12 discovery, right?

13 A Right. I would prepare for it.

14 Q What does that mean?

15 A As I read each statement, I would write down  
16 the name of the witnesses in that statement.  
17 I would note on a form like this. This is a  
18 -- this would have been the Prosecutor's  
19 handwriting, all right. They would not take  
20 something like this and add to it or anything  
21 other than what the defense attorney is  
22 entitled to.

23 So I would write down as each page came  
24 up, I would write down all the names for  
25 witnesses. I would note whether or not there

1 is an oral statement, a written statement.  
2 Then check off -- let me see here. There  
3 should be some note about -- I would make a  
4 list anyhow of what the evidence is as I would  
5 read each police report, whether there was  
6 clothing, jewelry.

7 I would make sure that the coroner's  
8 report is attached, any scientific evidence  
9 reports would be attached, if they were in our  
10 file. Or we would go get them and make sure  
11 that defense counsel got them.

12 But I don't know who prepared this.

13 Q So my understanding --

14 MR. CALDERONE: Just for the record,  
15 you're still referring to Bates stamped 118?

16 THE WITNESS: 188. Yeah, 118.

17 Q Thank you.

18 Can you turn to 125, please. Keep this  
19 open 118 if you want.

20 A 125? Okay.

21 Q This appears to be a response to discovery  
22 also. Is that what it looks like to you?

23 A It is. Let me see if -- I can't compare it,  
24 but -- looks like the working copy is by the  
25 Prosecutor. Then it is typed up by our

1 secretaries and sent out.

2 Q So, where it says on here that there are  
3 additional witnesses which are not subject to  
4 disclosure, at some point they have to be  
5 disclosed to the defense, right?

6 MR. LAMBERT: Objection.

7 MR. MENZALORA: Objection.

8 MR. CALDERONE: Objection, form,  
9 foundation.

10 A Yes.

11 Q At what point is that?

12 MR. LAMBERT: Objection.

13 A I don't know how it would actually, but I just  
14 did it originally.

15 I see on this case there is a list of  
16 coroner, three officers. Barbara Campbell  
17 worked out of the coroner's office. She was a  
18 technical expert.

19 Some guys put down there the witnesses  
20 which are subject to disclosure. I just  
21 listed them all. I did not do this.

22 Q So, my understanding, based on your testimony  
23 on Saturday, was that when you started to work  
24 a file, you would write down all of the names  
25 that were mentioned in the police report and

1 give those to the defense?

2 A Right.

3 Q Is that accurate?

4 A If it was my file. Right, if I was the chief  
5 prosecutor on it.

6 Q Did you do that in the Andrews' case?

7 MR. LAMBERT: Objection.

8 A I don't know see that I did. Someone else  
9 must have handled discovery.

10 Q If you had done it in this case, would you  
11 expect to see a list of all -- all the names  
12 of everyone in all those police reports?

13 MR. LAMBERT: Objection,  
14 speculation.

15 Q Let me actually ask a different question. How  
16 is it, based on your review of these documents  
17 now, that you can say that you were not the  
18 one to handle discovery in this case?

19 A Because I would write -- I've never written  
20 down that there were other witnesses were not  
21 subject to disclosure. Now maybe that is a  
22 standard form that I just never noticed.

23 But the form we saw before, working  
24 form, I would just start listing on a separate  
25 piece of paper if there were a lot of

1 witnesses. If it's a small case with, you  
2 know, four, five, six witnesses, I would just  
3 write it in there. But with my sloppy  
4 handwriting, there is probably not enough  
5 room. So I would just use a legal size pad  
6 and they would type it up and then attach it  
7 to here. Staple it to this.

8 Q All right. So you would include all the names  
9 of everyone in the police report and attach it  
10 to your response to discovery?

11 A Yeah, if I were responsible for the case, I  
12 would do it.

13 Q Okay. And in this case did you give any  
14 information about any witness to the defense?

15 A I don't recall. I don't recall that at all.

16 Q Can you turn to 214, please?

17 A 214?

18 Q Actually pause at what I think is 171. Go to  
19 171 first.

20 A Okay. It's a form.

21 Q Yeah. So my question on 171 is just do you  
22 know what this is?

23 A I have seen this form before, but I don't know  
24 the name of it. It's sort of like a cover  
25 sheet form. I have no idea who writes it up.

1 Q Is any of this writing yours?

2 A No.

3 Q Do you know if this is a document that is

4 created by police, or the prosecutors, or

5 someone else?

6 A I don't know who creates it.

7 Q Now go to 214, please.

8 A Okay.

9 Q Do you recognize this document?

10 A I do. It's a witness list.

11 Q Did you create this?

12 A No.

13 Q Did you create any draft of this?

14 A I don't recall other than the one you saw of

15 the precipe request. That was my handwriting.

16 I would have to compare it with this to see if

17 this is the typed-up version of what I wrote

18 up. But I don't recognize this.

19 Q And you don't recognize the handwriting?

20 A No, it's not my handwriting.

21 Q Do you know who Mary Smith is?

22 A I do not.

23 Q Do you recall if you ever spoke to Mary Smith?

24 A I do not.

25 Q Do you know whether Mary Smith ever gave any



1 statement to the police officers?

2 A I don't recall.

3 Q On page 228, please.

4 MR. LAMBERT: What is the last page  
5 we were on?

6 MR. CALDERONE: 214.

7 MR. MENZALORA: 214.

8 A Some of the handwriting is upside down.

9 Q Yes, thank you.

10 MR. CALDERONE: Which page is that?

11 THE WITNESS: 228.

12 Q So I don't think this was included. I don't  
13 think we've looked at this yet. Correct me if  
14 I'm wrong, but on page 228, is any of this  
15 handwriting yours?

16 A Look at it normally where 228 is upright.

17 Q Okay.

18 A None of that handwriting that is right side up  
19 is mine.

20 Now turn it upside down. When it  
21 starts, return these files to P. Lazzaro,  
22 Lakeside, C. Marino, all of that is mine. Pat  
23 set the -- this is in reference to some other  
24 case. It says set the murder case for  
25 March 3rd. If witnesses show, try this case.

1           If not, take the plea to robbery. This guy is  
2           guilty, but I don't know if we can prove it,  
3           Carmen.

4                     There are times when Courts will set  
5           multiple cases for trial. This is not the  
6           Isaiah trial. There is no robbery in Isaiah  
7           Andrews' case.

8    Q        Okay.

9    A        So just to give you the benefit of how this  
10           probably was written. I'm sending this back  
11           to another prosecutor much older than I, more  
12           experienced, Pat Lazzaro. He's at Lakeside  
13           Courthouse, okay?

14   Q        Okay.

15   A        All right. And I don't know from where I'm  
16           sending this. I don't know if I am at the  
17           Watson Building, the Welfare Building, or 21st  
18           Street. I'm telling him to set the murder  
19           case for trial. If witnesses show, try the  
20           case. If not, take the plea to robbery.

21                     So it must have been another case that  
22           counted as not related to Isaiah Andrews.

23   Q        Okay.

24   A        And that had to be attached to a file. There  
25           is a file number on this.

1 Q Who is Lazzaro? You said he is an older  
2 prosecutor.

3 A Yes. He eventually became a magistrate in the  
4 federal court.

5 Q Did he have anything to do with the Isaiah  
6 Andrews' investigation as far as you know?

7 MR. CALDERONE: Objection.

8 A Not as far as I know.

9 Q Can you think of any reason why you would  
10 return the Isaiah Andrews files to him or tell  
11 him anything about the Isaiah Andrews' case?

12 A No. The only people involved in the Isaiah  
13 Andrews' case would be the people assigned to  
14 Judge Sweeney's courtroom. So that would be  
15 Charles Laurie, I don't -- I can't remember if  
16 we had a third or who the third was, and me.  
17 So we would be the only ones that would handle  
18 that. And we either kept the case for  
19 pretrial and then sent it back to the record  
20 room. Or when we got near the trial date,  
21 that case would be pulled out permanently  
22 until we finished the trial and stay with us  
23 until the case was over with. And then the  
24 verdict would be written in and sent down to  
25 the records room to be recorded.

1 Q Do you recall whether you actually completed  
2 the Bill of Particulars in this case?

3 A I do not.

4 Q Can you go to -- well, any Bill of Particulars  
5 that actually was submitted should be signed,  
6 right, by a prosecutor?

7 A Probably John T. Corrigan's name. It goes on  
8 under his name, I think. A stamp.

9 Q I did see that. So did the individual  
10 prosecutor who was assigned to the case didn't  
11 actually sign the pleadings at that time?

12 A No, that was another one. You saw that work  
13 form. When they asked for discovery, we give  
14 them witnesses and what other documentation  
15 and the opportunity to come and see the hard  
16 evidence.

17 On the Bill of Particulars usually what  
18 was given back was the indictment.

19 Q Oh, really?

20 A Yeah. They would ask for a Bill of  
21 Particulars, we would give them the  
22 indictment. Then we get together and work out  
23 whatever differences we have. But I don't  
24 ever remember going through a long series of  
25 explanations as to what the basis for a Bill

1 of Particulars is.

2 Q And you really saw a lot of changes to the  
3 criminal legal system.

4 A Yeah, sure did.

5 Q Go to 205, please.

6 A 205?

7 Q 205. Going backwards now.

8 A All right. The precipe. The witness list,  
9 subpoenas.

10 Q So this one is from December of '74. Do you  
11 recall whether you had anything to do with  
12 preparing this one?

13 A I do not. I've never seen this before. I  
14 don't know -- it says the case number and  
15 Judge Jaffe. And then the Prosecutors on it  
16 are Joe Gibson, Tim Taylor, and Dave Borland.

17 I know all those guys. I don't know  
18 what they had to do with the case.

19 Q Do you whether Tim Taylor ever worked on this  
20 case?

21 A I do not.

22 Q Did you ever talk to Tim Taylor about this  
23 case?

24 A I don't remember ever talking to anybody other  
25 than Charlie Laurie about it.

1 Q All right. So then you don't remember talking  
2 to David Borland about it?

3 A Nor Joe Gibson.

4 Q Okay. On the top of that page is a date  
5 12-1-74.

6 A 12-11.

7 Q 12-11-74. Do you know what that means?

8 A These would have gone out from our secretary  
9 who typed this up to the Sheriff's Office. On  
10 12-11-74 the Sheriffs probably received it  
11 because it was just a matter of walking it  
12 over to them, and then they would start to  
13 serve the subpoenas.

14 Q Can you think of any reason why people would  
15 have -- these three people would have been  
16 subpoenaed in December of '24 -- December of  
17 '74? Excuse me.

18 A No. Other than there would be a dismissal of  
19 the original case, or reindictment, and  
20 somehow they were reassigned because there is  
21 a different room. They would have been in  
22 Judge Jaffe's room, and I don't remember Judge  
23 Jaffe having any interest in that case at all.

24 Q Okay. You don't remember it ever being  
25 reindicted either?

1     A       No.

2     Q       Did you ever review any notes or learn

3             anything about any other prosecutor's

4             interviews of any witnesses in this case?

5     A       No.

6     Q       When you spoke to witnesses in the course of

7             your investigation of this case, did any of

8             them tell you that they had been in touch with

9             anyone else from the County?

10    A       I don't remember anyone ever saying anything

11            like that to me.

12    Q       Did you ever talk to J.C. Williams?

13    A       A J.C. Williams?

14    Q       Yes.

15    A       I don't know who he is.

16    Q       Did you ever speak with an investigator for

17            the defense?

18    A       I don't recall talking to the defense at all,

19            much less an investigator. I know we had

20            pretrials with Bill Summers, but I don't know

21            that their -- I don't know that an

22            investigator would ever come and talk to us.

23    Q       Last page in this document -- from this

24            exhibit is 184. Can you look at that, please?

25    A       184?

1 Q Yes.

2 A Okay.

3 Q Do you know what this is?

4 A Yes. It is the arrest form for the Cleveland  
5 Police Department.

6 Q Would you see this?

7 A Pardon me?

8 Q Would you see this when you were assigned to  
9 the case?

10 A Yes, this would be in our file.

11 MR. CALDERONE: I can't see what  
12 you're looking at. It is an arrest warrant  
13 for who?

14 THE WITNESS: It is the Cleveland  
15 Police Department arrest form. 184.

16 Q Was anyone in the Prosecutor's Office ever  
17 involved in approving charges of a suspect in  
18 this period of time from '74 to '75?

19 A At what stage?

20 Q At the time that -- like approving charges to  
21 the police officers?

22 A When they write this out, we don't even know  
23 what's going on. We don't even know about  
24 this case when they are writing this out.  
25 They are making an arrest of an individual and



1           putting down basic information.

2                       This -- once they complete their  
3           investigation, this would be attached to that  
4           and we would get all the files that they have.  
5           Then we would present it -- prepare it for  
6           Grand Jury presentation and then put it in the  
7           record room until some judge tells us to  
8           prepare for pretrial.

9   Q       You can put that big binder away for now if  
10           you would like.

11  A       Sure.

12  Q       Thank you.

13                       Then let's look at this one.  So going  
14           back to L-3.  You're in the right binder.

15  A       Oh, okay.

16  Q       Just go to tab 3.

17  A       130?

18  Q       Yes, page 130.

19                       Actually move on to 130 -- well, I  
20           guess I'll ask 130, this is your handwriting,  
21           right?

22  A       It is, yes.

23  Q       Do you recall where you got the information on  
24           this page?

25  A       Specifically, no, but it had to come from the

1 police reports.

2 Q Well, I guess can you say with certainty that  
3 you got this information from the police  
4 reports or did you gather this information on  
5 your own through talking to witnesses?

6 A It would definitely come from the police  
7 report. I didn't go out and do any  
8 investigation on my own. All the information  
9 I got was from police reports.

10 Q Let's just work through this. So Adam Wolf,  
11 it says he is a desk clerk at Colonial Motel.  
12 No longer works there. It looks like there is  
13 some contact. You made some documentation  
14 here about efforts to contact the witness.  
15 Could not contact this witness who was the  
16 clerk on the day this event occurred, right?

17 A Yes.

18 Q Were you talking about your own efforts to  
19 contact this witness or someone else's?

20 A I'm not sure. This is -- let me see.

21 Okay. Pages 130 through 133, that is a  
22 trial preparatory work for me. And it appears  
23 from here I'm getting ready for trial. And  
24 this is the status of witnesses that would be  
25 prospective. And I'm making notes on each one

1 as to whether or not we could find them, are  
2 they available. So that's what this is.

3 This is not pretrial in the sense of  
4 bargaining stage. This is pre-trial. I'm  
5 getting ready for trial now. I am. This is  
6 all my writing.

7 Q So you used those words to distinguish kind of  
8 just if you are still trying to -- well,  
9 strike that.

10 When you say in these notes could not  
11 contact or called the witness, are you talking  
12 about your own efforts?

13 A Yes.

14 Q You're not documenting someone else's efforts?

15 A I mean, I can't find this person. And I may  
16 -- if we decided -- if Charlie decided that  
17 was the witness we were going to call, then we  
18 would have a detective go out there and find  
19 them.

20 Q Page 131. I think there is a highlight here  
21 so I'm sure Ken asked you about this, and I  
22 apologize I can't remember the answer. Is  
23 this your handwriting?

24 A Yes, it is.

25 Q And where it says, "Steve please check these

1           two people out," that is your handwriting,  
2           where there is a little highlighted X?

3    A       Where do you see that, on 131?

4    Q       The last paragraph.

5    A       Oh, yeah, "See if police can check these two  
6           people out to see if the defendant told them  
7           anything about the crime or his wife." Okay.  
8           That's all my handwriting.

9    Q       Did you contact the police to see if they  
10           could check those people out?

11   A       I don't know if I did or not. Probably did.  
12           I don't recall it though. But, you know, I  
13           don't recall making these notes, but this is  
14           my handwriting.

15   Q       Fair enough. So, when you would tell the  
16           police to go out and do some follow-up  
17           investigation, would you make a report of that  
18           or would you -- well, would you make a report  
19           of that?

20   A       I would not, no.

21   Q       Would you expect the police officers to make a  
22           report of that?

23                   MR. MENZALORA:     Objection.

24                   MR. CALDERONE:     Objection.

25   A       There is no procedure for them to make a

1 report or not.

2 Q What do you mean?

3 MR. MENZALORA: Objection.

4 A If I said, go out and find a witness, they  
5 might give me a call and say, here's the  
6 number and here's the address, subpoena them.  
7 They wouldn't give me a formal report or  
8 anything like that.

9 Q Okay. Well --

10 A Or they may. Like I say, there is no  
11 procedure that was hard line that they had to  
12 follow a certain procedure.

13 Q Okay. Well, officers have testified to me  
14 that in the Homicide Unit they were required  
15 to document everything that they did.

16 MR. LAMBERT: Objection.

17 MR. MENZALORA: Objection.

18 A Right.

19 Q So if an officer went out -- or I guess ever  
20 in your experience, have you ever had an  
21 officer go out and do some follow-up  
22 investigation that you asked for, and then you  
23 received a police report that came through,  
24 you know, that they dropped off at some point  
25 down the line to document that?

1 MR. CALDERONE: Objection.

2 A I don't specifically recall. But odds are  
3 that probably happened. I'm not sure though.  
4 I don't recall any incident like that.

5 Q Okay.

6 A But it's not farfetched.

7 Q Would you ever before trial do any kind of  
8 like final records requests from the police  
9 officers to make sure you had all of the  
10 relevant -- or all of the police reports that  
11 existed?

12 A The final records request was not -- they  
13 wouldn't hold back evidence from us with  
14 documents. And we saw no need to make a  
15 specific request for them, so no.

16 Q So you would expect that as the officers  
17 continue the investigation, they would  
18 document that and you would get that  
19 information?

20 MR. MENZALORA: Objection.

21 A Right. They would follow everything that they  
22 had to follow in the way of procedure, and we  
23 would get the results of it one way or  
24 another, by oral or by written statement.

25 Q And if it came to you by oral statement, would

1           you write it down somewhere?

2     A       Oh, sure, yes, I would.

3     Q       Where?

4     A       On something like this. If I asked a  
5           question, for example, I might even say this  
6           page and if I'm looking for an answer to a  
7           question on this page and they got it to me, I  
8           would probably write the date and what it is.

9     Q       Okay. Did you present this case to the Grand  
10           Jury?

11    A       No.

12    Q       Do you know who did?

13    A       I do not.

14    Q       Do you know who testified at the Grand Jury?

15    A       I do not.

16    Q       Did you ever review Grand Jury transcripts?

17    A       No.

18    Q       Do you know what evidence was presented to the  
19           Grand Jury?

20    A       I do not.

21    Q       Did you ever speak to the coroner in this  
22           case?

23    A       I believe I did because there is some notes  
24           indicating that the information I got could  
25           only come from the coroner or the coroner's

1 report.

2 But in this case I would imagine I  
3 called the coroner on some things, especially  
4 on the handprint or something like that, just  
5 to confirm that what they were saying was  
6 accurate.

7 Q Are you aware that in this case there were  
8 varying times of death reported?

9 MR. CALDERONE: Objection,  
10 foundation, misrepresents facts. Go ahead.

11 A I never compared any of the documents. I  
12 don't recall indicating that there were.

13 Q Let's see if I can find this note. Oh, it's  
14 the beginning. Back in L-1 I think.

15 A L-1?

16 Q Hold on. Let me find it before I tell you  
17 where to go.

18 No, L-2, page 176.

19 A Okay.

20 Q Here these are your notes regarding time of  
21 death, right?

22 A Yes.

23 Q Do you know where you got this information for  
24 time of death?

25 A I either called the morgue or that was in the



1 pathology report.

2 Q Now this report, or this page here has one  
3 date on it and it's "Palm print too smeared to  
4 be compared, per SIU 2-20-75," right? That's  
5 the last thing on this page?

6 A Yes.

7 Q Do you believe that all of these notes were  
8 made on 2-20 of '75?

9 A I'm not sure when they were made. Makes sense  
10 though. I mean, if I made them on different  
11 dates, they would probably be different pieces  
12 of paper. But it's reasonable. It's also  
13 reasonable that I just added to another paper.

14 Q Right. That is what I would do.

15 Do you believe that this, "Palm print  
16 too smeared to be compared, per SIU, 2-20-75,"  
17 did you write on 2-20-75 or were you  
18 documenting information that was received by  
19 SIU on 2-20 of '75?

20 A I got this information on February 20, '75.

21 Q Are you aware that the Bill of Particulars in  
22 this case includes a different time of death?  
23 It's not 9:00 to 12:00.

24 A I don't know where the Bill of Particulars is.  
25 I don't remember reading that.

1 Q Did you ever learn that the time of death was  
2 actually between 11:00 and 2:00 p.m.?

3 11:00 a.m. and 2:00 p.m.

4 A I don't recall that. I don't recall if I knew  
5 it or not. I'm just looking at my notes here.

6 Q Would that have been a significant piece of  
7 information to you?

8 A Yes.

9 Q Why?

10 A Time of death?

11 Q Yes.

12 A Try to get as close to time of death as  
13 possible for accuracy.

14 Q That would be important when determining  
15 alibis, right?

16 A It would be if there is an alibi involved with  
17 something like that. But just to get the  
18 facts accurate, that's -- I mean, that's one  
19 thing that Mr. Laurie always pushed. He said,  
20 forget the strength or weakness of the case,  
21 just get the facts accurate and then work from  
22 there. So the emphasis of getting the case  
23 factually correct so that you are presenting  
24 it properly to the jury.

25 Q Did you ever request documents from the

1 coroner in this case?

2 A I don't recall it. But we would regularly get  
3 all the documents we could because that's part  
4 of discovery.

5 Q If you made a records request to the Coroner's  
6 Office, there would be a documentation of that  
7 somewhere, right?

8 MR. MENZALORA: Objection.

9 MR. CALDERONE: Objection.

10 A Yes. But records request at that time were a  
11 lot different from now. All we wanted, we  
12 would say send it to us. But they would have  
13 already probably given it to the Police  
14 Department, in preparation for presentation to  
15 the Grand Jury.

16 Q Sure. Sure. But if you -- I guess I'm trying  
17 to figure out though if you actually went to  
18 the coroner's -- you know, if you requested  
19 other -- start again.

20 If you made a request to the Coroner's  
21 Office for their file?

22 A I don't recall doing something like that. But  
23 their file was always complete with us.

24 Q Okay. Was there any kind of inter-office mail  
25 or any kind of request, like some kind of a

1 form that you could fill out to request their  
2 file?

3 A I would give them a telephone call and say  
4 send it down, and they would do it. No  
5 reports were made.

6 Q Well, there would have to be some kind a  
7 tracking of that report as it was moving from  
8 one office to another, right?

9 MR. MENZALORA: Objection.

10 MR. LAMBERT: Objection.

11 A No. At most it would arrive at our office,  
12 they would date stamp and then give it to us.

13 Q In this case, did Isaiah Andrews offer any  
14 kind of alibi evidence?

15 A I don't recall whether he did or not.

16 Q Was the timing of his movements throughout the  
17 day of the murder significant?

18 MR. CALDERONE: Objection,  
19 foundation.

20 A Yes.

21 Q Why?

22 A You want to know where he is and what he's  
23 doing.

24 Q Did you ever evaluate Isaiah Andrews'  
25 movements that day against the varying times

1 of death?

2 A I don't recall ever doing that.

3 Q Were you aware while you were investigating  
4 the Isaiah Andrews case that there was an  
5 alternate suspect?

6 MR. LAMBERT: Objection.

7 MR. CALDERONE: Objection, asked and  
8 answered.

9 MR. LAMBERT: Assumes facts not in  
10 evidence.

11 A I don't remember whether there was or not.  
12 There could have been, but I don't remember  
13 whether or not there was.

14 Q Okay. Well, upon your review of these police  
15 reports in front of you, does that refresh  
16 your recollection as to whether there was an  
17 alternate suspect here?

18 MR. LAMBERT: Objection.

19 A After -- there was a reference to -- I forgot  
20 the name now -- Watts. I don't recall  
21 specifically that he was an alternate suspect.

22 Q Based on --

23 A The police took a look at him and apparently  
24 eliminated him as a suspect.

25 Q Are you aware of any forensic or physical

1 evidence connecting any alternate suspect to  
2 this murder?

3 MR. MENZALORA: Objection.

4 A I am not.

5 Q Were you ever?

6 A Not that I can recall.

7 Q Do you agree that the existence of an  
8 alternate suspect is exculpatory information?

9 MR. MENZALORA: Objection.

10 MR. LAMBERT: Objection.

11 MR. CALDERONE: Objection,  
12 speculation.

13 A Depends on how you are looking at it. I would  
14 probably say yes, and the defense attorney  
15 would say yes. But there are many situations  
16 where police officers look at suspects and  
17 clear them and I don't consider that  
18 exculpatory.

19 In any one investigation you could get  
20 a number of different situations where before  
21 the police find out what really happened, they  
22 talk to a number of witnesses and they may  
23 focus on one or two of them as suspects, and  
24 it turns out that they are not related to the  
25 case at all.

1 Q Okay.

2 A So that is not exculpatory, the fact that they  
3 clear somebody.

4 Q Do you, in your estimation, if the police  
5 officers investigate a suspect and actually  
6 make an arrest of that suspect and then  
7 release that suspect and pursue charges  
8 against another person, should that  
9 information about the other suspect and that  
10 person's arrest be disclosed to the defense as  
11 exculpatory information?

12 MR. MENZALORA: Objection.

13 MR. CALDERONE: Objection,  
14 foundation. Calls for speculation.

15 MR. LAMBERT: Calls for a legal  
16 conclusion. Calls for speculation.

17 A I wouldn't characterize it as exculpatory. If  
18 it was a situation like that, I would, like I  
19 say, list the name of the witness, put it in  
20 the file, let the defense attorney figure it  
21 out for themselves.

22 We don't sit down, except for when it's  
23 really obvious exculpatory information, we  
24 don't say, here is a witness that has  
25 exculpatory information. We just give them

1           the witness. He has to decide what he's going  
2           to do. We're not obliged to try and figure  
3           out what the tactics of the defense is as to  
4           what's exculpatory or not. I just give the  
5           witness, and let them decide is that  
6           exculpatory.

7    Q       Okay.

8    A       Because they have the same right to talk to  
9           witnesses as we do.

10   Q       Okay. So, in this case, did you ever produce  
11           the name Willie Watts to the defense?

12   A       I don't recall producing it or not producing  
13           it.

14   Q       Do you know if anyone else in the Prosecutor's  
15           Office produced the name of Willie Watts to  
16           anyone in the defense?

17   A       I do not.

18   Q       Did you ever talk to Willie Watts?

19   A       I don't recall talking to him at all.

20   Q       Do you recall while you were working on this  
21           case back in the '70s knowing about Willie  
22           Watts?

23   A       No, I do not.

24   Q       Okay.

25   A       As any other witness. I don't recall Cloud,



1 or Scott, or any of those folks.

2 Q Well, you don't remember their names, but you  
3 do remember parts of the --

4 A I remember what they said and the character of  
5 the case. How the crime was committed. I  
6 remember the background of Isaiah Andrews. I  
7 remember her background. That all had to come  
8 from the file.

9 Q Yeah. You remembered a lot in my -- I thought  
10 at least.

11 A It surprised me too.

12 Q Yeah. I don't know that I could have pulled  
13 all that out.

14 But so did you have any independent  
15 recollection of there being an arrest of some  
16 other person in this case?

17 A No.

18 Q I want to look at L-6.

19 A 264. Is that what it is?

20 Q Let's go to 268. Yeah, but you're in the  
21 right place.

22 A Wait a minute.

23 Q It's in L-6. It's the last page of L-6.

24 A It jumps, 64, 65, 68.

25 MR. CALDERONE: There is one page

1 missing from the report, page 3.

2 A Two at least.

3 Q It was produced to me out of order so you're  
4 correct in that it's 264, 265, 268.

5 A The page that is missing is 3 of 4.

6 Q Right. Have you ever seen page 3 of 4?

7 A I don't recall any of the documents here.

8 Q In your review of L -- of Exhibit L, did you  
9 ever see Exhibit 3 -- I'm sorry -- page 3 of  
10 this report?

11 A I don't recall that, but I would have had to.  
12 They don't send us reports that are half-baked  
13 like this. They would have included  
14 everything. I don't know why the page is  
15 missing. Obviously on 268 that's my bracket  
16 and my writing, my printing.

17 Q So, at some point you had 268 in your  
18 possession, right?

19 A Yes.

20 Q The last paragraph of 268 it reads, "It's our  
21 opinion that this crime was committed by  
22 Willie Watts."

23 A Right.

24 Q And then it goes on to state, "who is  
25 apparently attempting to sell his mother's

1 coat and other valuables to get money to get  
2 away from the city," right?

3 A Right. I don't remember that at all.

4 Q Do you agree though that this conclusion by  
5 the police officers that Willie Watts  
6 committed this murder would be a significant  
7 piece of information to communicate to the  
8 defense?

9 MR. LAMBERT: Objection.

10 MR. MENZALORA: Objection.

11 A Yeah, that's why I highlighted it.

12 Q Did you ever communicate this information to  
13 the defense?

14 A I don't recall whether I did or not.

15 Q Do you agree that that would be exculpatory  
16 information?

17 MR. MENZALORA: Objection.

18 MR. CALDERONE: Objection.

19 A At that stage of the investigation, I don't  
20 know what would be exculpatory or not, but  
21 it's significant.

22 Because if you look at the report,  
23 September 18, that is early on in the  
24 investigation. I don't even think at this  
25 stage they have zeroed in on Isaiah Andrews.

1 I think they are in a situation where they  
2 don't know who committed the crime.

3 Q You're right because -- well, at this point  
4 they had decided --

5 A They didn't even know who the victim was.

6 Q -- that Willie Watts hadn't committed the  
7 crime, right?

8 A Unidentified Black female. So this is really  
9 early on in the investigation.

10 Q Well, even early on -- I mean, this  
11 investigation didn't last that long, right?

12 MR. LAMBERT: Objection.

13 A I don't know how long it lasted. Probably  
14 lasted until the -- probably the end of  
15 September. Any other investigation they did,  
16 I don't know how long it lasted.

17 But the reports seemed to be bunched  
18 around the latest of the 25th or something  
19 like that. There may have been a few after  
20 that, but they had the information at that  
21 time.

22 This was speculation here. And I can  
23 understand why it is speculation. They don't  
24 have all the evidence at hand.

25 Q On what do you base your statement that this

1 is speculation by the police officers, by the  
2 investigators that Willie Watts committed this  
3 crime?

4 A Really don't have enough information to even  
5 make a statement like that. They don't know  
6 who the victim is. They never heard of Isaiah  
7 Andrews. They don't know her background or  
8 his. They haven't been able to focus on  
9 anyone as a suspect, so this appeared to them  
10 at that time to be relevant, and that is the  
11 way they wrote it up.

12 Q Well, they focused on Willie Watts as a  
13 suspect, right?

14 A Right. That's what -- yeah, they did.

15 Q They actually then went ahead and arrested  
16 Willie Watts, right?

17 A I would say they probably did arrest him. I  
18 don't know what the rest of the report would  
19 say, but I'm guessing that they probably did  
20 arrest him and talk to him.

21 Q Police officers are able to solve murders even  
22 if they don't know the identity of the victim,  
23 right?

24 MR. MENZALORA: Objection.

25 MR. CALDERONE: Objection,

1 foundation, speculation.

2 A Yes. Technically, yes. I have had one case  
3 in my own career, and the only I have heard of  
4 -- I have only -- and that's the only case I  
5 have ever heard of where we disposed of the  
6 case not knowing who the victim is.

7 I have never heard of anybody else in  
8 the office have a case like where they didn't  
9 know who the victim was. We tried cases  
10 without the body, but we knew who the body  
11 was. I mean, who was missing.

12 Q Did you ever speak to any police officer about  
13 Willie Watts?

14 A I don't recall if I did or not.

15 Q Did you ever speak to Laurie about Willie  
16 Watts?

17 A I don't recall specifically, but I probably  
18 did. We probably went over everything  
19 together.

20 Q Are you aware of any forensic evidence  
21 connecting Willie Watts to the crime?

22 A I am not.

23 Q Let's move to L-7.

24 MR. LAMBERT: What page is that?

25 THE WITNESS: 267.

1     A       Is that right, 267?

2     Q       Yes.

3                You were asked about this 267 also by  
4     Ken. The bottom left has a signature. Do you  
5     know whose signature that is?

6     A       No, I do not.

7     Q       Okay. And then Kevin Walsh signed it also.  
8     Kevin Walsh's signature also appears in the  
9     middle of the page; do you know why?

10    A       In the middle of the page?

11    Q       Yeah, right above your --

12    A       Scribbling?

13    Q       Your writing. I see what appears to me to be  
14    Kevin Walsh's --

15    A       In my writing, yes, it does.

16    Q       Did that signature exist before you wrote on  
17    this?

18                Let me ask you this. Do you know why  
19    his signature is there?

20    A       I do not know why his signature is there. But  
21    that's his signature, not mine. The printing  
22    below it is mine.

23    Q       Do you know who Kevin Walsh was?

24    A       No, I do not.

25    Q       He was a sergeant, right?

1 A Oh, yeah, I mean, other than the way he is  
2 described here, yes, he is a sergeant. But I  
3 don't remember him specifically. I don't know  
4 if I have ever had any contact with him.

5 Q Was he assigned to the SIU?

6 A If you look at the bottom there, do you see  
7 where it says approved? When police officers  
8 write a report like this, their names go on  
9 it. So Kane and Proffert were involved in  
10 making this report. He would submitted to  
11 their sergeant, and the sergeant would approve  
12 it. He would review it to see if it's  
13 properly written according to their guidelines  
14 and standards, and then he would approve it  
15 and then it would go out.

16 There should be some type of a -- the  
17 standard is there's some type of sergeant  
18 approving all these reports before they are  
19 sent to us or they go out as official police  
20 officer reports. Because he may look at it  
21 and see something deficient and then tell them  
22 to go back and do it again.

23 Q Right.

24 A So that's his job here. He has no part in the  
25 case other than to review documents of the



1 people who work for him.

2 Q Well, that's what you think, right? I mean,  
3 in fairness you don't actually know what his  
4 role in reviewing this was, right?

5 A Like my temperature 99.6. You want to bet on  
6 it?

7 Q Do you know if Kevin Walsh was assigned to  
8 SIU?

9 A I do not. I don't recall that at all.

10 Q Do you know whether these other two, Hick and  
11 Kane -- or I'm sorry -- well, I think that's  
12 Hick, Kane, or Crawford were assigned to SIU?

13 A I do not.

14 MR. CALDERONE: Just note objection  
15 to the interpretation of the name. I don't  
16 think that's Hicks.

17 MS. GELSOMINO: What do you think it  
18 is?

19 MR. CALDERONE: Pedich.

20 MS. GELSOMINO: I'm looking at -- who  
21 do you think is 22 -- oh, yeah, you're right.

22 MR. LAMBERT: Patrick. James  
23 Patrick.

24 Q Well, any of these guy on the bottom left, do  
25 you know if any of them are in SIU?

1     A       No, I do not. But Patrick, Pedich, that's a  
2             flip of a coin there.

3     Q       Yeah.

4     A       Well, look him up. 2227 or 2207, they will  
5             tell you who he is.

6     Q       All right. That's okay.

7             Okay. So we already talked about the  
8             fact that your handwriting is on the middle of  
9             this, right?

10    A       Yes.

11    Q       And part of this is crossed out. The crossed  
12             out part, is that also your handwriting?

13             MR. CALDERONE: Objection, asked and  
14             answered.

15    A       Yes, it is.

16    Q       When did you -- it says per SIU, so I'm  
17             assuming you spoke to someone in SIU?

18    A       Yes.

19    Q       Do you mind if I stand up and ask these  
20             questions?

21    A       No, go right ahead. I don't care.

22    Q       It's so uncomfortable.

23    A       That's okay.

24    Q       Did you -- when -- do you know who you spoke  
25             to in SIU?

1     A         I do not.

2     Q         Do you know when you spoke to SIU and you were  
3               told that the print is not defendant's?

4               MR. CALDERONE:     Objection, asked and  
5               answered.

6               MR. MENZALORA:     Objection.

7     A         No.

8     Q         Why did you cross that out?

9     A         Because I looked at it.  It looked pretty  
10               sloppy.  I could barely read it myself.  So I  
11               tried to print it more clear to define the  
12               significance of it.

13    Q         Read to me what it says behind where it is  
14               crossed out.

15    A         As best I can?

16    Q         Yes.

17    A         "Per SIU" something "print comparable, not  
18               defendant."  My answer to that was "print not  
19               clear enough to compare."

20               So apparently I was questioning whether  
21               or not it was the defendant's and it turned  
22               out that there was not sufficient evidence or  
23               clarity to compare that with anybody.

24    Q         So, you agree that the words that have been  
25               crossed out here are not the same words as the

1 noncrossed out notes that you made, right?

2 A Right.

3 Q In fact they mean the opposite, right?

4 MR. CALDERONE: Objection.

5 Q Well, that's not true actually. Let me  
6 rephrase that.

7 A I'm questioning it.

8 Q Well, what you write down is that it is not  
9 the defendant's print, right?

10 A I wrote down compared, not the defendant. And  
11 then I started something else. I don't know  
12 what that is. It looks like it -- I don't  
13 know what that is.

14 Q Okay. So where it says, not defendant's  
15 print, you crossed that out.

16 A Yeah.

17 Q And then instead you wrote, print not clear  
18 enough to compare.

19 A Yes.

20 Q You agree that those two statements are not  
21 the same. They don't mean the same thing,  
22 right?

23 A You're right. Literally they do not mean the  
24 same thing. Practically from a prosecution  
25 stance, they mean it is not the defendant's.

1           In other words, we have no evidence to compare  
2           that his print is on that newspaper.

3    Q       Well, per SUI print compared, not defendant's  
4           print.

5    A       Right.

6    Q       What does that mean to you?

7                   MR. CALDERONE:       Objection to that  
8           interpretation of a writing because I don't  
9           know that it is his.

10   A       That their opinion it's not his print. But  
11           the more significant conclusion is the print  
12           is not clear enough to compare to anybody.

13   Q       Why is that a more significant conclusion than  
14           the print doesn't match the defendant's?

15   A       Because if it is not clear enough to compare  
16           with anybody, you can't exclude anyone. It  
17           could be the defendant's print. That's their  
18           problem in wording, not mine.

19                   I mean, if you have a fingerprint that  
20           is not comparable, that doesn't mean the  
21           defendant didn't leave it there, that just  
22           means you can't say he did because it is not  
23           clear enough to say anybody's print is there.

24   Q       Well, let me ask you, do you remember having a  
25           conversation with SIU in which they told you

1           that the print was compared and it was not  
2           defendant's print?

3     A       No, not specifically. I don't remember any  
4           conversations in this case.

5     Q       And don't remember then also whether or not  
6           anyone from SIU ever told you the print was  
7           not clear enough to compare, right?

8                   MR. CALDERONE:     Objection. Asked and  
9           answered three times.

10    A       Well, but they would have had to because it's  
11           down there because that's what I believe that  
12           they don't have enough -- there is not enough  
13           definiteness and clarity on that -- I think it  
14           is a palm print, if I'm not mistaken. On the  
15           newspaper, bloody palm print on the newspaper,  
16           that is what they are talking about. It  
17           wasn't clear enough to compare with anybody.  
18           So it's not the defendant's from a factual  
19           standpoint we can't make -- cannot make that  
20           claim.

21    Q       Did you ever tell Laurie that you spoke to SIU  
22           and you were told that the print was compared  
23           and it was not defendant's print?

24    A       I don't remember any conversation with him.  
25           But I would have had to told him, my -- I

1           would give him my opinions. I would give him  
2           my attitude towards the case. I would tell  
3           him any information that is in there.

4                     He would have know about it too. He  
5           would have the same thing. We would make  
6           copies of this. This is not just my workings.  
7           I mean, he would be making his own notes and  
8           everything.

9   Q       Okay. Did you give a copy of this with your  
10           written notes on it to Laurie?

11   A       I don't recall doing that. But I would say  
12           this is all geared toward trial preparation,  
13           what you are including, what you are  
14           excluding. And that would have to be talked  
15           over by the attorneys on the case if there  
16           were two or more.

17   Q       Okay. So you believe that Laurie would have  
18           known about these conversations with SIU?

19   A       Oh, absolutely.

20   Q       Did you ever tell anyone on the defense about  
21           these conversations with SIU?

22   A       I don't recall talking to the defense. I may  
23           have, I may not have.

24   Q       Oh, you previously testified that you --  
25           excuse me if I am wrong -- I thought you

1           previously testified that you recall pretrials  
2           with Bill Summers?

3     A       Yes.

4     Q       Okay.

5     A       Not when and where and what we discussed. But  
6           I recall sitting down. I don't know who the  
7           third person was in our group, but it was  
8           Mr. Laurie and me and Bill Summers. And  
9           whenever we talked about it, we talked about  
10          the case.

11    Q       Do you believe that this information regarding  
12           SIU telling you that the print was not  
13           defendant's is significant?

14    A       Sure. It excludes everybody. You can't use  
15           that piece of evidence. We would put it in,  
16           but we would also put it in with idea that  
17           this is the evidence. It's not clear enough  
18           to identify anybody.

19    Q       Okay. But it would be important --

20    A       I -- let me say this, I would put it in. But  
21           I don't know how they handled it at trial.

22    Q       What do you mean you would put it in?

23    A       I would put it in evidence. I would put in  
24           evidence the piece of paper and put the SIU  
25           expert on the stand, did you check this out.



1           What was your determination. It was not clear  
2           enough to identify the print as being  
3           anybody's.

4   Q       I'm sorry, I lost part of that I think. You  
5           said that you would put in --

6   A       I would enter this into -- I would, if I were  
7           trying the case, I would enter it into  
8           evidence.

9   Q       What part of it would you enter into evidence?

10  A       The whole thing. I would bring in the SIU. I  
11           would bring in the document that is being  
12           questioned, the newspaper with the bloody palm  
13           print on it. And I would have them describe  
14           what they did with the -- with that newspaper  
15           and when it was submitted to them and were  
16           they able to identify anybody's palm print.  
17           And they would say exactly what's on there.  
18           And, no, the palm print was too smeared to  
19           identify as being anybody's.

20  Q       Okay. So this is my hang up here. If it was  
21           compared to the defendant and it didn't match  
22           the defendant, that seems very different than  
23           the palm print is too smeared to compare.

24                   MR. LAMBERT:           Objection.

25                   MR. CALDERONE:        So what's the

1 question?

2 A To be blunt, they cannot make that statement.  
3 If the conclusion is the palm print is too  
4 smeared to compare with anybody, they cannot  
5 say it's not the defendant.

6 Q When did -- do you -- did you make these notes  
7 on the same day? The note that you crossed  
8 out and the other note?

9 A I don't know. I don't recall whether I did or  
10 not. One might have been a question and one  
11 of them might have been a conclusion. And I  
12 could have made that on the same day by just  
13 calling up SIU and talking to them, having  
14 written down my question and having written  
15 down their answer might have been done on the  
16 same day, it might have been done on different  
17 days.

18 Q Wait. Are you now saying that the part that  
19 you crossed out is your question to SIU?

20 A It's a question in my mind. It says per SIU,  
21 comparable -- not the defendant. Now either  
22 they told me that or I concluded that from a  
23 previous knowledge that the palm print was  
24 smeared and not comparable. And then I wrote  
25 in specific, print not clear enough to

1           compare.

2       Q       Did SIU ever provide to you a report stating  
3           that the print was compared to the defendant  
4           and it was not defendant's print?

5       A       I don't recall the report. But if they made  
6           that conclusion, they would have documented  
7           it. My thinking is they would have documented  
8           that somewhere.

9       Q       Right. Because that's what SIU did, right,  
10          they documented the results?

11      A       Yes, they should -- they would normally do  
12          that. That was their procedure. They should  
13          do it anyhow.

14      Q       And have you ever seen any report that says  
15          the print was not clear enough to compare?

16      A       I don't recall if I saw a report or not.

17      Q       But you would expect that if was the  
18          conclusion of SIU, that there would be a  
19          report on that, right?

20      A       I would think they are involved in summary, or  
21          not -- maybe not a separate one for that, but  
22          in their conclusion of all the evidence we  
23          would give them, they would go item by item.

24      Q       Where did you get the information that the  
25          victim's blood type was C and the newspaper's

1 blood type was O? Is that what that says  
2 actually?

3 MR. CALDERONE: No. I was going to  
4 say objection. That's not what the testimony  
5 was. I don't think that is what it says.

6 I think it says they are both Type O.

7 Q Well, then -- what does this say? It's your  
8 handwriting, Carmen.

9 A But it's a sloppy O is what it is. The blood  
10 type is A, B, O, and there is no blood Type C.  
11 Unless they come across something new since I  
12 have been around.

13 Q Okay. So do you know where they got that  
14 information?

15 A It would have to be from some scientific  
16 organization, whether it is the coroner's  
17 office or the Scientific Identification Unit.  
18 I wouldn't know that and they would have to  
19 give me that information.

20 Q Did you ever add any SIU witnesses to any  
21 witness list?

22 A I don't recall if I did or not. That witness  
23 list is prospective because if I left the  
24 case, then it was up to Charlie Laurie to  
25 figure out who he was going to call. And me

1 making up a witness list like that, like when  
2 you saw my handwriting, that would have been  
3 my first impression, but it would be his  
4 conclusion as to who we call. The lead  
5 prosecutor on the case always decides how the  
6 case is managed through the courts, especially  
7 at trial.

8 Q Sure.

9 A So who we call as witnesses.

10 Q Okay.

11 A We may differ, but probably not very much in a  
12 case like this.

13 Q So, I'm pretty sure, and I can double check,  
14 but I'm pretty sure that there is in fact a  
15 SIU witness on the list.

16 MR. CALDERONE: I'm sorry, what was  
17 the question?

18 A In my handwriting?

19 Q That's what I was going to ask. This is cut  
20 off.

21 A There should be a coroner. There should be  
22 SIU. Anybody that did any type of technical  
23 or scientific evidence on the case was  
24 presented.

25 MR. CALDERONE: Do you want the

1 answer or do you want --

2 MS. GELSOMINO: Is Patrick on there?

3 MR. CALDERONE: Patrick, yes. It is  
4 on the bottom of -- Exhibit L-4 at the bottom  
5 should have James Patrick.

6 MS. GELSOMINO: It's cut off on mine.

7 MR. CALDERONE: And then right next  
8 to it there are some scratched out stuff here.

9 Q I'm going to hand you page 116. I think yours  
10 is cut off like mine.

11 A Okay.

12 Q So is that your handwriting at the bottom that  
13 includes Patrick?

14 A Yes.

15 Q Did you talk to him?

16 A I don't recall whether I talked to him at all.

17 Q Do you know what this crossed out writing is  
18 here on this page?

19 A It says Type O, victim O.

20 Q So why would that be there? Why would you  
21 have written that here in this exhibit list?

22 A I don't know. Probably just making notes.  
23 Thoughts crossing my mind.

24 Q Okay. I will take that back when you are  
25 ready.

1 A Oh, okay.

2 Q Thank you.

3 MR. CALDERONE: For the record, what  
4 Bates stamped page were you reading from  
5 Exhibit L, Sarah?

6 MS. GELSOMINO: 116.

7 THE WITNESS: 116.

8 A Oh, I'm sorry, patrolmen at the end, that is  
9 not my writing. That one I said -- I wasn't  
10 following you. That is not my writing. I  
11 don't print like that.

12 Q Okay. Hold on. Let me show you 116 again.

13 MR. CALDERONE: Yeah, look at the --

14 Q Does yours have it on there?

15 A Yeah, those two. James Patrick again and  
16 Sobienksy, that is not my writing.

17 Q Do you know -- is this victim O, the part that  
18 is crossed out, is that your handwriting?

19 A That is, yes.

20 Q Okay. So, there is no report in here from SIU  
21 about the conclusions about the palm print.

22 So, did you tell them to look into it  
23 to make a comparison?

24 A I would not have. I would have -- that is  
25 investigative. Now if they missed it, I would

1           have said, you know, whose palm print is -- do  
2           we have a report on this. They would get it  
3           done. Then you would see a letter, dated  
4           report. But that would have been handled by  
5           the police.

6   Q       Well, that's my question is I don't see a  
7           report at all on this. I only see your notes.

8   A       Yeah.

9   Q       So --

10  A       I don't recall if there was a report or not.  
11           I'm relatively sure they would make a report  
12           on it. That was their procedure. They were  
13           methodical.

14  Q       I would have expected to see one, but I don't.  
15           So, do you --

16  A       Do you know if all this is complete after 50  
17           years?

18  Q       Does it appear complete to you?

19  A       No, because there is no SIU report. I don't  
20           see a coroner's report in there either. Those  
21           are standard.

22                   In fact, those would have gone out to  
23           the defense as discovery. If I were handling  
24           the case, they would have gone out as  
25           discovery.



1 Q I remember you saying that, and so is kind of  
2 the reason I'm asking this question actually  
3 because it appears, because of what you --  
4 yeah, if there is an SIU report, you told me  
5 you would actually give those actual reports  
6 to the defense, right?

7 A Right. It used to be some guys would say, you  
8 know, go get it yourself. But they don't have  
9 to go get it. It is our obligation to give  
10 them all the documentation we have. Telling  
11 them, yeah, go down to the coroner's office  
12 and pick it up for yourself, that didn't go,  
13 and all the trial attorneys knew that.

14 You wouldn't say that to a defense  
15 counsel unless you are being, you know,  
16 obstreperous or something like that. You knew  
17 you had to give them, and that's what you  
18 would do. You would get those documents  
19 together and give it to them. Plus you were  
20 going to use them at trial so they had to have  
21 them before trial.

22 Q Right. So in this case, since we don't have  
23 an SIU file or SIU report, I should say, is it  
24 possible that you saw this report and wanted  
25 to know --

1 A Which one are you referring to?

2 Q I'm sorry, I'm looking at page 267. It is --

3 A Okay. I got it, yeah.

4 Q That one.

5 So is it possible that you saw this SIU  
6 report that indicates that there was a partial  
7 palm print developed, photographed, and  
8 entered into evidence, right, known as LP  
9 29187?

10 A Right.

11 Q And then --

12 A That means latent print.

13 Q Right. So that is a -- there is a print in  
14 evidence, right?

15 A Right.

16 MR. CALDERONE: What are you looking  
17 at?

18 THE WITNESS: Right here.

19 MR. CALDERONE: Got it.

20 MS. GELSOMINO: The second -- your  
21 second highlighted paragraph.

22 Q Is it possible that you then called SIU and  
23 said, does this print match? Find out if this  
24 print matches the defendant?

25 A That seems more probable than having the

1 report, only because I wrote it down. If I  
2 had the report, I would be writing on the  
3 report. I would have put a star, an X with a  
4 zero around it, that it's salient, that it's  
5 important to the case.

6 Q That makes sense to me.

7 So, you wanted to -- and I imagine  
8 because this would be -- if this print matched  
9 the defendant, that would be important  
10 information for you to have at trial, right?

11 MR. LAMBERT: Objection.

12 A Both ways.

13 Q And it would also be important information for  
14 the defendant?

15 A Whether it's the defendant's or whether it's  
16 not the defendant's, you would present it at  
17 trial.

18 Q Oh, I understand. Okay.

19 All right. So, it's most likely then,  
20 if I understand what you are saying, that you  
21 saw this police report on page 267, you called  
22 SIU and you told them that you wanted to know  
23 more information about the print, right?

24 A Yeah. It might have been -- that sounds the  
25 more probable of the two ways. Because if I

1           had the report in front of me, I wouldn't be  
2           questioning it so thoroughly. I would just  
3           look at it and see that the results of the  
4           test were that it was not definable enough to  
5           compare it with anyone.

6   Q       Then it appears that at some point SIU told  
7           you that this print was not the defendant's,  
8           right?

9                       MR. LAMBERT:           Objection.

10  A       Right.

11  Q       And then --

12  A       That's my -- I'm writing down what my memory  
13           of what they told me.

14  Q       Okay.

15  A       They might have told me it's not comparable  
16           with anyone, so in my mind I would have said,  
17           well, then it is not -- you know, we can't  
18           present it as the defendant, because that's  
19           speculation. The Court would never let that  
20           in anyhow.

21  Q       What do you mean by that?

22  A       The Court wouldn't let in speculation. If I  
23           were to say, well, it could be the  
24           defendant's. If it is not comparable, that's  
25           the only thing that most of the judges I know

1           would let in. They wouldn't let you further  
2           than that and say it could be.

3   Q       Okay. Fair enough.

4                       But the judges would allow a defense  
5           attorney to question based on a statement by  
6           SIU that said the print doesn't match, right?

7   A       Well, I'm sure almost every defense attorney I  
8           know would draw it out that way. Then you  
9           cannot say that this is the defendant's. And  
10          then an argument is going to be then it is not  
11          the defendant's.

12   Q       Right.

13   A       That would be the progression of it.

14   Q       Right. So that is for the noncrossed-out  
15          portion, right?

16   A       Yes.

17   Q       I want to focus on the crossed-out portion for  
18          a moment.

19                       It would be a significant piece of  
20          evidence for a defendant at trial to be able  
21          to present to the jury that SIU compared the  
22          print and found that it did not match the  
23          defendant, right?

24                       MR. LAMBERT:        Objection.

25                       MR. MENZALORA:      Objection.

1 MR. CALDERONE: Objection.

2 A If he can do that. He couldn't do that in  
3 this case because they could not compare it  
4 with anything. Their conclusion was it is not  
5 comparable. It's smeared, so they can't  
6 compare.

7 It is like a fingerprint. If there is  
8 a smeared fingerprint, they can't compare it  
9 with anybody.

10 Q Okay.

11 A They can't exclude or include anybody by it.

12 Q Okay. And your basing that statement right  
13 now just on the fact that you wrote  
14 something --

15 A That's my conclusion --

16 Q -- different and then crossed it out on this  
17 page, right?

18 A Right. That's my thinking at that time.

19 Q Was that your thinking at the time or your  
20 thinking now as you look at this?

21 A Well, it had to be at the time because I wrote  
22 it down.

23 Q As you sit here today, can you tell me that  
24 SIU never told you that the print was compared  
25 to the defendant's palm print, did not match

1 the print?

2 A No, I can't say they told me that.

3 Q Okay. Because that's actually -- because you  
4 wrote it down, right? You said -- your words  
5 are per SIU, the match -- the print doesn't  
6 match the defendant, right?

7 MR. CALDERONE: Objection.

8 A That's what I wrote down.

9 Q Okay. And you didn't make that up, I'm sure.  
10 That's actually per SIU.

11 A It could have been my conclusion after they  
12 talked to me. They may not have said it in  
13 those words. That's why you put the witness  
14 on the stand, so it is their words that  
15 matter. And you look at their report.

16 Surprisingly the SIU report is not in  
17 here. But like I say, I don't know what stage  
18 of trial preparation this was. Maybe these  
19 reports were still being made or coming in.  
20 That's why we don't have the documentation.

21 Q And Laurie knew all this, right?

22 A Pardon?

23 Q And Laurie knew all of this, right?

24 MR. MENZALORA: Objection.

25 MR. CALDERONE: Objection.

1 A (Laughing)

2 Q Was that a yes? I'm sorry, I missed the  
3 answer.

4 A Oh, I'm sorry, I got lost. What did you say  
5 again? I'm sorry, Sarah.

6 MR. CALDERONE: She is asking you  
7 what Laurie knew.

8 A What he -- I don't know what he knew.

9 Q Did you tell him about -- I may have asked you  
10 this, and I apologize. Did you tell him about  
11 your conversation with SIU?

12 A I can only hypothesize that he knew the same  
13 thing that I knew.

14 Q Give me one second.

15 So you reached out to SIU because you  
16 wanted to gather more information regarding  
17 whether this palm -- about this palm print,  
18 right?

19 A I did. I wanted clarification on it. Can I  
20 do anything with it or not.

21 Q I presume then that they did the testing and  
22 then they got back to you, right?

23 MR. MENZALORA: Objection.

24 MR. CALDERONE: Objection,  
25 foundation.



1 Q With the information?

2 A I'm not sure what the procedure would have  
3 been. Either they got back to me or they  
4 waited for me to call them or they sent me the  
5 report. Could have been any one of them. It  
6 was just a question I had, and they were going  
7 to answer it one way or the other.

8 Q Got it. But you called them because you  
9 wanted them to get you information about this  
10 palm print. Some period of time passed and  
11 they got you the information, right?

12 A I had contact with them. They would have done  
13 that anyhow.

14 MR. MENZALORA: Objection.

15 A They would have done that pursuant to the  
16 investigation of the police. The police would  
17 have brought them all this information, and  
18 they would have known to go over the papers to  
19 find out if the palm prints or if any  
20 fingerprints were definable enough that they  
21 could compare it with anyone. That's  
22 standard. They didn't -- they wouldn't have  
23 waited for us. This is all part of the  
24 initial investigation. They wouldn't wait for  
25 a prosecutor to tell them what to do. They

1           knew what to do.

2       Q       And you are saying that not based on any  
3               reports in this case, but just based on what  
4               you are assuming?

5       A       Right. It is the same with the pathology  
6               reports. You know, we don't tell -- we don't  
7               call those doctors down there and tell them  
8               what to do and how to do an autopsy. They  
9               know what to do. They just give us the  
10              results of it. They are way ahead of us on  
11              this stuff.

12      Q       Sure. In this case did you ask SIU to do  
13               anything else for you?

14      A       I don't recall whether I did or not. As I  
15               read these reports now, I don't see why I  
16               would ask them to do something. It looks like  
17               they covered everything that I would have  
18               questions about.

19      Q       Other than the comparison of the print.

20      A       Right. Fingerprints, comparison of blood  
21               types. That's all their business and they  
22               know what they have to do.

23      Q       Was the print ever tested against Willie  
24               Watts?

25      A       I don't know if it was or not.

1 Q Did you ask SIU to do that?

2 MR. LAMBERT: Objection.

3 A I don't recall asking them to do anything.

4 Q When you called SIU to talk about the print,  
5 to get more information about whether it  
6 matched the defendant -- we agree that you did  
7 call SIU to get more information about the  
8 whether the print matched the defendant,  
9 right?

10 A Yeah.

11 Q When you called SIU to get that information  
12 about the print, did you ask them whether the  
13 print was compared to anyone else?

14 MR. MENZALORA: Objection.

15 A No, I didn't.

16 Q Did you ask them to compare the print to  
17 anyone else, other than the defendant?

18 MR. LAMBERT: The actual print to  
19 compare to anyone else, that print?

20 A You know, here is one of the problems. You're  
21 still looking at an investigation of  
22 September 18th. They had a dead body. They  
23 don't know who it is. And Isaiah Andrews is  
24 not even mentioned in there. So this  
25 information that we're writing down now came

1 much later, once they -- they arrested, I  
2 assume, somewhere in here I saw they arrested  
3 Willie Watts.

4 In the normal course of things, they  
5 would have tried to identify that against  
6 anybody, if it were identifiable. But there  
7 is no use trying to compare palm prints or  
8 fingerprints, if the evidence itself is not  
9 comparable, it's too smeared to say whose it  
10 is no matter who you are comparing it with.

11 So if this is a situation where they  
12 have not concentrated or even come across  
13 Isaiah Andrews, they don't know who the body  
14 is, and they are just making -- these are  
15 preliminary reports. And I am writing in  
16 information undated that would have come days,  
17 if not weeks, later finding out what  
18 information was done.

19 You know, although the -- what was the  
20 date of death, the 14th or something like  
21 that? The body was found on the 18th. So by  
22 the time it gets to our office, these  
23 questions might have been asked in October,  
24 November, December, whenever the defense  
25 attorney -- whenever the judge sets the trial

1           for pretrial. That's what you should find out  
2           because that's the first time we get the case.

3           So if the judge sets this for pretrial,  
4           say, on October 10th, we're reading it for the  
5           first time on October 10th, and we are looking  
6           backwards to find out what the answer to all  
7           our questions have been. Looking at reports  
8           dated the 18th, 19th, through the 25th, and  
9           we're two or three weeks or a month past that.  
10          So you have to find out when Judge Sweeney set  
11          this for pretrial.

12          So they are not on top of this as the  
13          very day. This is dated the 18th. Well, they  
14          don't know who the body is. They don't know  
15          who Isaiah Andrews. And it's not even in the  
16          Sweeney's -- Judge Sweeney's jurisdiction.

17          So it's got to go through indictment to  
18          him, and he has got to set it for pretrial.  
19          And that pretrial date, whatever it is, that's  
20          when we start looking at the file. We don't  
21          even know what this is until we get the  
22          pretrial date.

23   Q       Okay. When you called SIU to get more  
24           information about the prints, did you ask them  
25           to compare the print to anyone else other than

1           Isaiah Andrews?

2     A       I don't recall whether I did or not.

3     Q       When you call SIU to get more information  
4           about the print, did you learn whether the  
5           print had been compared to anyone else other  
6           than Isaiah Andrews?

7     A       Let me stop you there.  It's presumptuous to  
8           say what I called them.  I don't recall  
9           calling them.  Maybe I call that.  Maybe they  
10          sent me a report.

11                I think I called them.  That is why I  
12          wrote it down this way, otherwise I would have  
13          a report in front of me.

14                I don't recall dialing SIU, asking them  
15          a specific question.  That's an important  
16          questions for us to ask.  So we would either  
17          get it by report, and if I had any questions  
18          based on that report I would clarify it by  
19          calling them rather than calling them down.  I  
20          don't recall specifically dialing them or  
21          talking to them about this.  Although I  
22          probably did.

23     Q       Okay.

24                   MS. GELSOMINO:     Let's take a break.

25                   THE VIDEOGRAPHER:  We're off the record

1 at two o'clock.

2 (Recess taken.)

3 THE VIDEOGRAPHER: We're back on the  
4 record at 2:19.

5 BY MS. GELSOMINO:

6 Q Do you know who Rocco Pullotro is?

7 A Yes.

8 Q Who is that?

9 A The Cleveland detective, when I met him, he  
10 worked Cleveland intelligence, Cleveland  
11 homicide, and eventually became the highest  
12 paid Chief of Police ever in the history of  
13 the City. That was his deal with Mike White.

14 He's quite a guy. You ever talk to  
15 him?

16 Q No.

17 A Quite a -- I kid him, he's got every penny he  
18 ever made, but --

19 Q Oh, wow.

20 A He made himself wealthy. He was really a good  
21 detective, outstanding.

22 Q Do you know if he had anything to do with the  
23 Isaiah Andrews case at any point?

24 A I don't recall his name coming up in  
25 connection with this.

1 Q In terms of this Exhibit L, I may have asked  
2 you this already, but you have no idea when  
3 any of these documents were added to this  
4 file, right?

5 A I do not know what dates they came in at all.

6 Q Okay. Are you aware of any witness in this  
7 case being intimidated or threatened at any  
8 time?

9 A No.

10 Q Are you aware of any investigations of any  
11 nature into Betty Worthy?

12 A Her specifically, no, other than she is a  
13 prospective witness in a case. That's all I  
14 know.

15 Q Are you aware of any investigation of any kind  
16 into Linda Cloud?

17 A The same, again I'm not.

18 Q Okay. Now do you remember where you got the  
19 information that Regina was a chemical  
20 engineer?

21 A This is speculation that I gave. It had to  
22 come from the Feds. It had -- I would tell  
23 you the procedure. It would be nothing  
24 formal. It would be a call, this is the  
25 background of that individual, they would not



1           make a document of it.

2       Q       Did you ask any of the family members of  
3               Regina that you spoke to about whether she was  
4               a chemical engineer?

5       A       I don't know where that came from. And I  
6               don't recall talking to her -- her mother was  
7               Mason, I think. And I don't recall talking to  
8               her mother or how I found out that she was  
9               involved in Blacks Back to Africa.

10      Q       Were all of your actions in relation to the  
11               Isaiah Andrews case consistent with the  
12               policies and practices of the Prosecutor's  
13               Office?

14                       MR. LAMBERT:        Objection.

15      A       They were.

16      Q       Were all of your actions in every case  
17               throughout the course of your career  
18               consistent with the policies and practices of  
19               the Prosecutor's Office?

20      A       Yes.

21                       MR. LAMBERT:        Objection.

22                       MR. CALDERONE:      Objection,  
23               foundation.

24                       MR. MENZALORA:     Objection.

25      Q       And your supervisors were aware of all of the

1 actions you took in this case, right?

2 A Yes.

3 MR. CALDERONE: Objection.

4 Q And your supervisors were aware of all the  
5 actions that you took in every case?

6 A No.

7 MR. MENZALORA: Objection.

8 Q No?

9 A My supervisors? No, once they assigned me to  
10 a room, they didn't follow-up on what cases I  
11 tried. They didn't know what was going on.

12 The only people that knew what was  
13 going on was, specifically with the case, the  
14 attorney that tried it, and secondarily the  
15 head of the three-man unit, as he would  
16 distribute the cases among the three of them.

17 Q Okay.

18 A So he know you're trying that case, but he  
19 would not get involved. Or she.

20 Q Okay. So that leads me to a question  
21 actually. In terms of the hierarchy of the  
22 office or the organization of the office in  
23 '74-'75, John T. Corrigan was the head of the  
24 office, right?

25 A He was the elected prosecutor, right.

1 Q And how did it go from there?

2 A It didn't spread out too much. We had chiefs  
3 of Appeals, Juvenile Court. We didn't have  
4 many divisions. Appeals, Juvenile Court. And  
5 then there was one Chief Prosecutor -- I'm  
6 sorry, he was the First Assistant, okay. And  
7 at one time, the First Assistant approved all  
8 the pleas. So you had anywhere from -- when I  
9 went there, 30 or 40 prosecutors going back to  
10 the First Assistant for pleas.

11 I was the First Assistant under  
12 Stephanie Tubb-Jones. The duty of the First  
13 Assistant is to manage the office, all right.  
14 All the complaints from the judges, the  
15 prosecutors, anything going wrong in the  
16 office, any organization that has to go on. I  
17 mean, it's like literally 40 telephone calls a  
18 day. For me it was like that.

19 Then they decided that was too much.  
20 And a guy named -- who was -- what it would be  
21 the head of a three-man team between two  
22 judges, the name of Bob Feighan. So they gave  
23 him the job of being the prosecutor who  
24 approved all pleas. So at that time he  
25 probably had 70 or 80 prosecutors waiting to

1 talk to him about cases to do pleas.

2 Q When was that?

3 A That was probably mid '70s through the '80s.

4 Q Oh, okay.

5 A Then I don't know -- then they added -- let's  
6 see. They added two others. Besides him  
7 there were two others who were approving  
8 pleas.

9 Under Mrs. Jones the saying was, I  
10 could approve pleas. But we had three others  
11 who were Chief Prosecutors that had certain  
12 judges' rooms, and those prosecutors in those  
13 rooms would go to them.

14 So it started out with the First  
15 Assistant handling all the pleas. Then Bob  
16 Feighan had that position. And then, I don't  
17 know, like Chief Plea Prosecutor, for want of  
18 a better term.

19 And then they added two people to  
20 assist him. And the standard was at least  
21 three, along with the First Assistant.

22 And for those of us who knew what  
23 leeway we had in the office, you could even go  
24 to the Chief Prosecutor -- you could go to the  
25 Prosecutor, John T. Corrigan, and Stephanie

1           Tubb-Jones if you didn't like the ruling on a  
2           case. It was rare. I mean, you were a little  
3           out over your skis going to Mr. Corrigan to  
4           complain that someone who has, you know, 20  
5           years experience on you is reading the case  
6           wrong.

7   Q       But it happened?

8   A       It happened with me, and he let me know it.

9   Q       Okay. So did line -- the courtroom  
10           prosecutors, line prosecutors, did they have  
11           discretion on how to investigate cases, on how  
12           to work cases?

13   A       No. They were taught like everyone else by  
14           experience. You had to -- they give you the  
15           book. Read the law. Read the procedures.  
16           Understand what's required for presenting  
17           evidence of a search and seizure or something  
18           like that in a courtroom. What are you -- you  
19           know, that was taught to you. The rest you  
20           learned.

21                   And for discretion, for a long time  
22           they didn't have any. If you want -- I don't  
23           care if it was fourth degree felony and you  
24           wanted to knock it down to a misdemeanor, you  
25           got approval for it.

1 Q That's still how it is it seems to me.

2 So you would need approvals for pleas?

3 A Every single plea.

4 Q And marks?

5 A Yes. And it would be marked on the file.

6 Q Okay. But then in terms of working the case,  
7 in trying the case, did prosecutors have  
8 discretion in those arenas?

9 A The only discretion they had was they didn't  
10 have to try a capital case if they didn't want  
11 to, if they objected to it morally. No  
12 pressure was placed -- and no pressure and no  
13 criticism was put on them because of it.

14 Other than that, it was sort of on an  
15 individual basis. If the couldn't handle a  
16 case, or they thought they weren't suited for  
17 it, or if they thought they weren't ready for  
18 a case that would last two, three, four weeks,  
19 that's heavy stuff. I mean, you better pretty  
20 much know everything before you handle one of  
21 those cases. Trials that were two, three days  
22 long, that was pretty standard, and no one had  
23 a problem with that.

24 Q You mentioned training, and a lot of this was  
25 just on the experiential training, right?

1 A Yes.

2 Q But was there any formalized training in the  
3 Prosecutor's Office in '74-'75?

4 A There was not.

5 Q Okay.

6 A They didn't have continuing legal education.  
7 And especially we didn't have time or money to  
8 send anyone for seminars.

9 Q Were there any written the policy manuals?

10 A You know, there was. When you came into the  
11 office, they gave it to you. I don't have  
12 mine. I didn't refer to it that often. I  
13 never looked through, should I do this. I  
14 mean, you know, the standard was you use a  
15 standard of morality first.

16 Q Okay.

17 A If it's good or bad by morality standards,  
18 then I mean then it is right or wrong by legal  
19 terms. So, do what's moral first and pretty  
20 much you're on the right track.

21 If you have a question, go see a senior  
22 prosecutor as to how you should handle it.

23 Q Was that in the written policy manuals?

24 A No, that was just common sense.

25 Q Did you -- so did you rely on your common

1 sense rather than the policy manuals?

2 A Yeah, pretty much though because John T. gave  
3 the office its moral compass. You knew not to  
4 screw up, to make a bad decision. If you  
5 needed help, you went and got help. If you  
6 needed his guidance, you got his guidance from  
7 him.

8 Q So it was really based on the individual  
9 prosecutor's moral compass?

10 A Yeah.

11 Q What was included in the policy manual?

12 A I don't even remember the first word of it.  
13 Do good and avoid evil, or something like  
14 that.

15 No, it was a procedure set out. It was  
16 a pamphlet that you got. And they updated it  
17 every so often. But I have no idea where mine  
18 was or -- I read it, I know that. You know,  
19 when you are new in the office, if they tell  
20 you to read something, you read it.

21 Q Sure. Is it something that you referred to  
22 over the course of your career?

23 A No. What I referred to was the -- mainly the  
24 rules of discovery and then the rules of  
25 evidence and the difference between presenting



1 something at trial and presenting something in  
2 an evidentiary basis, and a motion to  
3 suppress. So, that you had to learn.

4 Q Okay.

5 A And you had to pay attention to -- in other  
6 words, you had to read the whole code.

7 Q Sure.

8 A You had to read the anodized sections too.  
9 Annotated rather.

10 Q Was there any testing or evaluation done to  
11 make sure prosecutors were reading and  
12 understood the policies of the office?

13 MR. LAMBERT: Objection.

14 A No.

15 Q What were your duties as a prosecutor?

16 A Mine was just to try cases.

17 Q Okay.

18 A Usually the procedure was, Grand Jury, which I  
19 spent one day in. Juvenile Court for a number  
20 of weeks or months. I went right from one day  
21 in a Grand Jury to trying cases.

22 Q Okay. Were you taught that you had any kind  
23 of duties to the defendant?

24 MR. CALDERONE: Objection,  
25 foundation.

1 A The law took care of that.

2 Q Okay. Well, what was your understanding about  
3 your duties as a prosecutor to the defendant?

4 A I didn't have any duties to him. The law  
5 covered that.

6 Q What do you mean by that? I just want to  
7 understand.

8 A Well, what's discoverable, what's  
9 exclusionary, what's exculpatory. The judge  
10 is responsible for a fair trial. We were  
11 responsible for following the law as it guides  
12 the prosecutors on how they present a case.

13 Q Did you understand that you had a duty  
14 to disclose exculpatory information?

15 A Oh, absolutely.

16 Q I'm going to show what you what has been  
17 marked, I think, as Exhibit 33 in this case  
18 previously. Here you go.

19 MS. GELSOMINO: Dave, you want one?

20 Q You don't have to look at page 1. Look at 2  
21 and 3.

22 A Page 2?

23 Q Yeah, this is actually 32, Exhibit 32,  
24 previously marked Exhibit 32.

25 So this is a letter from John T.

1           Corrigan. Can you take a look at this?

2    A       The one in the front where it says General  
3           Police Order?

4    Q       Yes. This is actually something I got from  
5           the Police Department. But I'm wondering if  
6           the letter that came from the Prosecutor, it's  
7           to the Chief of Police, but have you ever seen  
8           this letter?

9    A       No, we would never have seen this.

10   Q       Can you read this? And my question to you is,  
11           were the prosecutors required to follow the  
12           same rules set forth in this letter to the  
13           police?

14               MR. LAMBERT:       Objection. No  
15           foundation.

16               MR. CALDERONE:     Same objection.

17   A       I would have to read the whole thing. This  
18           has to do with, I believe, a change in rules  
19           of discovery.

20   Q       Yes.

21   A       Is that correct?

22   Q       Yes.

23   A       Well, he sends this out to all the police  
24           departments to let them know what is required.  
25           We would have gotten this.

1 Q Okay.

2 A And in -- as a rule there were no seminars or  
3 anything. But when these came out, everyone  
4 read them.

5 Q Okay.

6 A I can only -- I remember the time -- I  
7 remember one time we would get together  
8 informally in a large part of -- happened more  
9 often in the Justice Center, because the other  
10 places -- we were at four different locations.  
11 And we would discuss some of this. And it  
12 would be told to us, these are the new rules.  
13 Read them. If you have any questions, ask one  
14 of the senior prosecutors. And we would read  
15 them. I mean, this was not something you just  
16 threw away, I haven't got the for it. You did  
17 it.

18 This was I guess a change in the rules  
19 by the Ohio legislature that John T. Corrigan  
20 was an apprising all the cities in Cuyahoga  
21 County. I never saw this though.

22 This is -- when was this? 1973. So --  
23 well, you can see what our was office like.  
24 They listed all the prosecutors in it.

25 Q I know. It's interesting.

1                   Okay. So you also though were apprised  
2                   of the change of the rules and were required  
3                   to abide by those, right?

4     A           Absolutely.

5     Q           As explained by Corrigan?

6     A           Yes, John T.

7     Q           In terms of the file, was there a standard on  
8                   how to organize and maintain the files in the  
9                   Prosecutor's Office? Or could every  
10                  prosecutor just kind of organize the file as  
11                  they wished?

12    A           Well, it came to you complete with an  
13                  investigation. How you put the papers back in  
14                  and out was your business. I mean, I would  
15                  divide it with the indictment. Everything  
16                  that was important in front of the indictment  
17                  goes there. Everything that was no value or  
18                  copies goes behind it.

19                         But a lot of guys just left it the way  
20                         it was, and it was sloppy at times. You know,  
21                         in other words, they were all mixed up.

22    Q           Okay.

23    A           But that's the way they read it, and that's  
24                  the way they handled it.

25    Q           Right. Okay. Because there was just no

1 policy or formalized training about how to do  
2 it?

3 A No.

4 Q Okay. Was there any kind of inventory of the  
5 file made at any point to ensure that a report  
6 wasn't accidentally -- didn't go missing or  
7 something?

8 MR. CALDERONE: Objection to form,  
9 foundation.

10 A They didn't. I don't recall us ever having a  
11 problem with that.

12 Q Great. You don't know anything about how the  
13 files were preserved after trial, do you?

14 A It was sent back to the record room and  
15 recorded. Then when the Notice of Appeals  
16 came in, as I recall, they were put in the  
17 file, and that file was then pulled with a  
18 card to take its place to know where they were  
19 sending it. And we did our own appeals.

20 Q Right.

21 A We had an Appellate Division for special  
22 appeals, for special situations. But every  
23 prosecutor did his own appeal. So you tried  
24 10 cases a year, you probably had 10 appeals  
25 you were going to do.

1                   And they came to you that way from the  
2                   record room. You didn't go down to get it  
3                   because you didn't know about it. There is an  
4                   appeal filed. It goes to the records. It's  
5                   recorded. And then it goes to the  
6                   prosecutor's name on the file.

7    Q            Okay. You were never in record management in  
8                   the department, right?

9    A            No. I was telling these guys. At 21st Street  
10                  there was an old lady there, an Irish lady,  
11                  named Mrs. Willett. You couldn't get by her  
12                  with a sledgehammer.

13                 You dare not go into there. And that  
14                  followed into the record room when we went to  
15                  the Justice Center. You could see a lineup of  
16                  people waiting to get their files to go up to  
17                  the courtroom for pretrial. And there would  
18                  be may be, you know, 15, 20 people in line  
19                  waiting the records. And you weren't allowed  
20                  back there. I never went back there. I never  
21                  went back there when I was the First  
22                  Assistant.

23   Q            You knew your domain.

24   A            Yeah. They really ruled back there.

25   Q            Since there was this rotation between

1 prosecutors and it wasn't uncommon to pass the  
2 file off to another prosecutor, were there any  
3 policies about ensuring that all of the  
4 important information was written down in a  
5 memo of some kind?

6 A No.

7 MR. CALDERONE: Objection, form and  
8 foundation.

9 A Every prosecutor made whatever notes he wanted  
10 to at the time of pretrial. If they settled  
11 it, fine. Then it was the next prosecutor's  
12 job to pick up the file and start right from  
13 the beginning again.

14 Q Okay.

15 A Read the file himself and decide what they  
16 were going to offer.

17 Q Okay. So you weren't required to document any  
18 kind of steps that you took in the  
19 investigation in any way before you passed it  
20 off?

21 A No. No one wrote memos then or memorandum.  
22 Memoranda.

23 Q Were you required to document any changing  
24 witness' stories or any kind of witness  
25 accounts before you passed off the file?



1     A       Oh, no. But any prosecutor would make notes  
2            like that. I don't know of anyone who would  
3            let that pass if there was a discrepancy  
4            between a person's either two written  
5            statements, two oral statements, or a written  
6            and oral statement, or what they were told  
7            when they interviewed the witness as opposed  
8            to what the statement made. That would be in  
9            the file. You would see notes directing  
10          anyone's attention to it.

11    Q       And that would be if a witness testified at  
12            trial and previously made a different kind of  
13            statement or different representations to the  
14            police, then that would be considered  
15            exculpatory, right?

16                   MR. CALDERONE:        Objection, form.

17                   MR. LAMBERT:         Objection.

18    Q       Or impeachment?

19    A       It would be considered discoverable.

20    Q       Okay.

21    A       After the witness testified, the judge would  
22            call a side bar conference. We would go side  
23            bar. We would turn over -- there were two or  
24            three different ways.

25                   We would turn it over to the judge, and

1 he would either read it and see if there was  
2 any discrepancy, or he would give the document  
3 to the defense counsel, let them read it, have  
4 them point out to the judge what they think  
5 was exculpatory and subject to cross-  
6 examination.

7 Most -- I would say in my experience,  
8 most of the judges would say basically do what  
9 you want with it. You know, I'm not going  
10 through every objection you have to it. If it  
11 is the prosecutor, I'm not going to go through  
12 everything he has. He now knows what's in  
13 there. Let him use it in cross-examination.  
14 That's my experience.

15 But the judge could limit it. He could  
16 go through and say, no, that's not  
17 exculpatory, that is just your opinion, and  
18 you say that in argument, in closing argument.

19 Q Okay.

20 A So it depends what judge you have as to how  
21 that was handled. But that's -- technically  
22 that's the first time the defense attorney is  
23 allowed to see it. If the witness takes the  
24 stand, and then only afterwards.

25 Q Okay. And you call it discoverable?

1 A Yes, absolutely.

2 Q Thank you.

3 Whose job was it to investigate --  
4 well, to make sure that all leads or potential  
5 leads in a case are followed up on?

6 MR. MENZALORA: Objection.

7 MR. CALDERONE: Objection.

8 A The detectives in charge.

9 Q Okay. Is there anything that you remember  
10 from the investigation into the murder of  
11 Regina Andrews that you haven't told me about?

12 A None that I can think of.

13 Q Do you know whether there were any statements  
14 in the case from the Statement Unit?

15 A I didn't see any statements in there.

16 Q So --

17 A Have you seen statements?

18 Q I was just going to ask you, can you describe  
19 to me what you would consider a statement?

20 A Yeah, there would be heading, case heading  
21 file, very formal. And it would be typed up,  
22 but it would be made pursuant to -- I don't  
23 think they did recordings. It would be made  
24 pursuant to the notes taken by the detectives.

25 So, they would interview a witness.

1 And they would take, as a regular course,  
2 copious notes. Then they would write up the  
3 statement. Have it typed up. Even question  
4 and answer and is this your statement. Do you  
5 understand everything. And then they sign it.  
6 And the detectives would witness it. And it  
7 would be formal.

8 Q You didn't see any of those in this case?

9 A I didn't see anything in here.

10 Q Was that pretty common that that would happen?

11 MR. CALDERONE: Objection.

12 A Oh, yeah, if there were witness statements or  
13 defendant's statement where they took written  
14 statements of them -- written meaning typed  
15 out. Or sometime they would have the witness  
16 write out the statement. But then you are  
17 dealing with legibility. But that was  
18 standard if there were witness statement.

19 Q Okay. I'm going to show you what's been  
20 previously marked as Exhibit 40. I just have  
21 a couple of cases. Would you expect to see  
22 formal statements for witnesses who are being  
23 called at trial?

24 MR. CALDERONE: I'm sorry --

25 Q Strike that. I withdraw that.

1 All right. So let's look at Exhibit 40  
2 that I just handed you. And you know what I  
3 just realized --

4 A 40? Is that what I'm looking at now, 40, this  
5 one?

6 Q Yes, that's exactly right. So I'm going to  
7 refer you to these numbers that are really --

8 MR. LAMBERT: Can I stop you? This  
9 is marked as 203. Is it Exhibit 40? Where's  
10 the mark?

11 MS. GELSOMINO: I'm just representing  
12 to you that in this case it has been  
13 previously marked as evidence as Exhibit 40.  
14 It says 203. But that is the original  
15 marking. I don't know what that is.

16 MR. LAMBERT: Okay. So --

17 A So I should not be looking at 40. I mean,  
18 there is no something that says 40.

19 Q Nothing says 40.

20 A Okay.

21 Q Just for the record I'm representing to you  
22 that I have pulled this.

23 MS. GELSOMINO: It was previously  
24 marked as Exhibit 40 in Marty Flask's  
25 deposition, Ken.

1 Q But what I am going to be pointing out are  
2 these little Bates stamps numbers at the  
3 bottom right corner. Do you see that? It  
4 says SUPP production, a bunch of zeros and  
5 then a number at the very end, it is very  
6 small.

7 A Yes.

8 Q When I am pointing you to page numbers, that's  
9 what I am looking at, okay?

10 A Oh, okay.

11 Q I understand that you haven't reviewed Exhibit  
12 40 before, but I'm going to ask you about  
13 handwriting on some of these pages, okay?

14 A Sure.

15 Q So if you go to page 23, Bates stamped page  
16 23, just look at the little corner, the little  
17 pages at the bottom.

18 Do you see where it says check on?

19 A Yeah.

20 Q That's not your handwriting, is it?

21 A No, it isn't.

22 Q Do you know whose handwriting that is?

23 A I don't.

24 Q I think that is probably going to be your  
25 answer for a lot of these, but I am just going

1           to ask you anyhow.

2    A       Sure.

3    Q       Go the page 27.

4    A       That is not mine either.

5    Q       If we go on to page 32.

6    A       32?

7    Q       It just says something there about Judge

8           Sweeney.

9    A       That's not my writing.

10   Q       That's not your handwriting?

11   A       No, it's not.

12   Q       Do you know whose handwriting this is?

13   A       Any of these?

14   Q       Do you recognize it in anyway?

15   A       No, not at all.

16   Q       Go to page 87. Towards the end.

17   A       Okay.

18   Q       Do you know what this page is?

19   A       It says case procedure, but I don't know who

20           this writing is. I'm not familiar with this

21           form.

22   Q       Have you ever seen it?

23   A       Not to my recollection.

24   Q       We can put that aside for the moment.

25   A       The whole thing? The whole --

1 Q Yeah.

2 A Okay.

3 Q Actually go to page 2, please.

4 A Of this report that I --

5 MR. CALDERONE: Exhibit 40.

6 Q I'm sorry, Exhibit 40. Page 2 of that one.

7 A Okay.

8 Q The handwriting, is any of that yours?

9 A No. None of it.

10 Q Do you recognize any of it?

11 A No. You see the references though.

12 Q I see references to Regina's mother living in

13 Ghana.

14 A Ghana. You know, I thought it was Liberia,

15 but I guess it's Ghana.

16 Q If we go back to that last page we were just

17 looking at, page 87. That's the court

18 procedure page.

19 A Right.

20 Q Zoom in on the bottom part of this. It says

21 Judge Matia and then Prosecutor Cables; do you

22 see that?

23 A Yes.

24 Q Do you know who that is?

25 A Tom Cables.



1                   Matia is the -- he's the adopting  
2                   parent of Judge Matia that -- is there still a  
3                   Judge Matia on the bench now?

4                   MR. MENZALORA:           Yes.

5    A            There is?

6                   This Matia I think adopted that Matia.  
7                   I know this Matia. I've talked to him many  
8                   times. Tried cases in his room and  
9                   everything.

10                  I don't know what this is, the case  
11                  procedure. This is probably out of the court  
12                  administration. This is not a County  
13                  Prosecutor's form.

14   Q            Do you know who Prosecutor Cables is?

15   A            I think his name was Tom Cables. I vaguely  
16                  remember him. He didn't stay long with the  
17                  office.

18   Q            Was he a Grand Jury prosecutor in this case?

19   A            He what?

20   Q            Can you tell if he was the Grand Jury  
21                  prosecutor in this case?

22   A            I don't know.

23                  I know at one time, and for a long time  
24                  it was -- no, the one I had was Gertrude Mann.  
25                  She's -- are you familiar with Mapp versus

1 Ohio?

2 Q Sure am.

3 A That's Gertrude Mann. The woman had that  
4 case, and she did a -- she was tough.

5 Then it was handed over to Jim O'Meara.  
6 Jim O'Meara was the head of Grand Jury with a  
7 number of prosecutors working for him to  
8 present all the cases for a long time. Like a  
9 couple of decades.

10 Q Looking at this, is the date presented to  
11 Grand Jury and then officers, Hubbard. Does  
12 this lead you to believe that Officer Hubbard  
13 testified to the Grand Jury?

14 MR. CALDERONE: Objection, foundation  
15 and speculation.

16 A That's speculative. That's pretty standard  
17 though. Rarely do they call witnesses in.  
18 The only time they are definitely calling  
19 witnesses in would be in a rape case.

20 Q Oh, okay.

21 A But --

22 Q So they would call officers?

23 A Right. They are running 30, 45, 50 cases a  
24 morning and then an afternoon. They are not  
25 putting on grand presentations. It's pretty

1 much one person takes the stand and does  
2 everything.

3 Q So you explained to me the difference between  
4 -- or what a statement means. Is that how it  
5 was understood in the Police Department to  
6 your knowledge, that a statement meant this  
7 formalized statement that you explained to me  
8 as opposed to just --

9 A A statement is by a witness.

10 MR. MENZALORA: Objection.

11 MR. CALDERONE: Objection,  
12 foundation, speculation. Go ahead.

13 A Statement is by a witness, whether it's  
14 written or oral. Whether it is by a defendant  
15 or a witness.

16 Police officers make reports. They  
17 don't make statements. Unless they were the  
18 witness to the events.

19 Q Okay. So if there is a report which documents  
20 something that a witness said to a police  
21 officer, that would not be considered a  
22 statement?

23 A It could be an oral statement. The witness  
24 could tell him an oral statement and not make  
25 a written statement. It's tedious to make a

1 statement like that. You have to sit down,  
2 take notes, have someone type it up. They  
3 probably had to type it out themselves. But  
4 they are thorough. They would do it if they  
5 had to.

6 But if it was just, I saw him do this,  
7 they would make an oral statement out of it  
8 and just leave it in their report, which would  
9 be discoverable when that witness took the  
10 stand.

11 Q You told us last time that you knew Leo Allen  
12 from the neighborhood. Were you guys pretty  
13 close?

14 A Who, Leo and I?

15 Q Uh-huh.

16 A I can remember playing basketball. He was big  
17 into basketball. But his brother was better.  
18 Leo was very good in softball.

19 We remember each other. I'm sure I'm  
20 about three or four years older. I think we  
21 went to -- he went to St. Pat's with me.

22 Q Right. I can't remember what you told me  
23 about your relationship to Hubbard. Did  
24 you have a relationship with Hubbard?

25 A No, not Rowell or Hubbard. I worked with them

1           before. I mean, I remember their names, so I  
2           must have worked with him. Their names are  
3           familiar to me, but I didn't grow up with  
4           them, I didn't know them.

5   Q       Did you ever go to social events with them?

6   A       No. There's a difference between black and  
7           white. I grew up on the east side, I grew up  
8           on the west side.

9   Q       That's real true.

10                   Okay. How about Francis McCaffrey?

11   A       I knew Frannie. He was a homicide detective.  
12           And I am more certain that I've had cases with  
13           him.

14   Q       Did you have any personal relationship with  
15           him?

16   A       No. We knew each other. We maybe see each  
17           other at maybe retirement parties, but that  
18           would be it.

19   Q       What was your relationship with Walter Dugan?

20                   MR. CALDERONE:     Objection.

21   A       I just recognize the name.

22   Q       How about Pete Comodeca?

23   A       Pete Comodeca, head of the Homicide Unit. I  
24           had talked to him many times.

25                   Just as an aside, he had three sons,

1 all went to West Point. He had an  
2 extraordinary family. I'm sure he's passed  
3 since. But he was quite a guy. He was a good  
4 manager. Cleveland Intelligence Unit and  
5 Cleveland Homicide Unit were outstanding  
6 units. They had people in there that you  
7 didn't have to tell them to do anything, they  
8 knew what to do.

9 Q Did you ever hang out?

10 A No. No, he was older than I and had a family  
11 to raise.

12 Q How about John Kaminski?

13 A I know him. I know the name. I probably  
14 worked with him at times.

15 Q Any kind of friendship or relationship outside  
16 of work?

17 A No, other than professional.

18 Q Did you ever go to like FOP events or anything  
19 like that?

20 A No, I didn't.

21 Q Kevin Walsh, did you have any relationship  
22 with him?

23 A No, I don't remember that name.

24 Q I know like four from this side of town. I  
25 just wanted to -- how about Nick Stanick?

1 A Stanick I remember. Tall guy, lean.

2 Q Did you have -- what was your relationship  
3 like with him?

4 A Same as the rest, professional relationship as  
5 homicide detective and prosecutor.

6 Q How about Officer Hicks?

7 A Dave Hicks, yeah. I knew him. We knew him a  
8 little better. He was Leo Allen's partner for  
9 a long time. He was big into sports. I think  
10 he was a -- wrestling was his off time.

11 Q All of these officers that I just asked you  
12 about, did you ever know of any of them  
13 failing to include any reports or anything in  
14 the file?

15 A No.

16 MR. MENZALORA: Objection.

17 Q Did you ever know of any of them to not tell  
18 every piece of information to a prosecutor?

19 MR. CALDERONE: Objection.

20 MR. MENZALORA: Objection.

21 MR. LAMBERT: Objection.

22 A Absolutely not.

23 Q Okay. Did you ever know any of these officers  
24 to encourage witnesses to change a statement?

25 MR. MENZALORA: Objection.

1 A No.

2 Q Did you ever know any of these officers to  
3 threaten people?

4 MR. MENZALORA: Objection.

5 A No.

6 Q Did you ever know any of these officers to  
7 destroy evidence?

8 MR. MENZALORA: Objection.

9 A No.

10 Q Did you ever know any of these officers to  
11 fabricate evidence?

12 MR. MENZALORA: Objection.

13 A No.

14 Q Did you ever know any of these officers to  
15 fail to ask when a witness testified  
16 inconsistently with prior statements?

17 MR. CALDERONE: Objection,  
18 foundation.

19 MR. MENZALORA: Objection.

20 A I'm not sure I follow. I mean a witness  
21 testified and it was inconsistent with their  
22 statement? Well, we would know that because  
23 we would have the statement. We would go to  
24 side bar and the defense would know that.

25 If they didn't participate in -- all



1           they -- the only reason they were at trial was  
2           to give us guidance and to help us get  
3           witnesses there and tip us off to something  
4           they thought was important that they observed.

5                     But when it came to inconsistencies,  
6           that was us, our job to present the written,  
7           oral statement that was inconsistent with the  
8           testimony to the judge, and it was the judge's  
9           decision as how we would handle it with  
10          defense attorney.

11    Q       All right.  How about -- did you know any of  
12           these officers to fail to take action if they  
13           became aware that a prosecutor did not know  
14           about exculpatory evidence that arose during  
15           the investigation?

16                     MR. MENZALORA:     Objection.

17                     MR. CALDERONE:     Objection, presumes  
18           facts and duties not in evidence.

19    A       I'm not sure what the nature of that question  
20           is.  I mean, how would they know what we don't  
21           know?

22    Q       Yeah, I mean, like if it ever became obvious  
23           at any point that a prosecutor didn't --

24    A       That we missed something?

25    Q       Yeah.  Or didn't know about potentially all

1           exculpatory information.

2                   MR. MENZALORA:     Objection.

3    A        I don't imagine that ever happening.  They  
4            would keep us up to date on everything.  Our  
5            files were current.

6    Q        Okay.

7    A        So if we missed something, it was our fault,  
8            not theirs.

9    Q        Okay.  Did you ever know any of these officers  
10           to fail to report their fellow officers for  
11           misconduct or policy violations?

12   A        We were never up on that.  We didn't know what  
13           was going on.  That was police stuff.

14   Q        Did you know any of these officers to  
15           fabricate evidence?

16   A        No.

17                   MR. MENZALORA:     Objection.

18   Q        You talked with Ken about formal discipline  
19           and I know you didn't have any.  I'm wondering  
20           if you were ever investigated by the  
21           Prosecutor's Office for anything?

22                   MR. CALDERONE:     Objection.

23   A        Me?

24   Q        Yes.

25   A        Not that I can recall.

1 Q Have you ever been investigated by any agency  
2 for potential wrongdoing?

3 MR. MENZALORA: Objection.

4 MR. CALDERONE: Objection.

5 A No. Not to my recollection or anything. If  
6 they did, they didn't tell me about it.

7 Q Have you ever had any kind of informal  
8 discipline in the Prosecutor's Office, or any  
9 other -- by any other organization?

10 A Me?

11 Q Yeah.

12 A No, none.

13 Q Do you know of any prosecutor ever being  
14 disciplined or investigated for a Brady  
15 violation?

16 MR. CALDERONE: Objection.

17 A For what kind of violation?

18 Q A Brady violation? Excuse me.

19 A No.

20 Q Are you aware of any wrongful convictions  
21 arising out of the Cuyahoga County  
22 Prosecutor's Office?

23 MR. MENZALORA: Objection.

24 MR. CALDERONE: Objection.

25 MR. LAMBERT: Objection.

1     A       I mean, other than the ones I've had reversed  
2             or something like that, no one kept track of  
3             that. It was on you to make sure you followed  
4             through with everything. And whatever  
5             happened, the office knew about it. I would  
6             go right through John T. Corrigan and  
7             everything, or Mrs. Jones.

8     Q       Was anyone ever disciplined for any conduct  
9             leading to a wrongful conviction?

10            MR. LAMBERT:       Objection.

11    Q       That you know of.

12    A       No, not that I know of.

13    Q       Were you -- do you know if any of these  
14             officers that I just listed -- I can repeat  
15             them if you need.

16    A       That's all right. I remember.

17    Q       Were any of them ever included on a Brady or  
18             Giglio list that you know of?

19            MR. MENZALORA:     Objection.

20            MR. CALDERONE:     Objection.

21            MR. LAMBERT:       Objection.

22    A       I don't recall any of them being on that. I  
23             don't recall it. You know, they may have, but  
24             I don't recall it. Nothing stuck out or  
25             anything like that.

1 Q So the only other question that I don't think  
2 I totally understand yet is when the --  
3 somehow the city prosecutor was involved in  
4 the course of the case, right?

5 MR. LAMBERT: Objection.

6 Q The police have it. The police do the  
7 investigation. They want to bring charges  
8 against someone. Somewhere the city  
9 prosecutor is involved. Somehow the county  
10 prosecutors becomes involved.

11 What's the role of the city prosecutor?

12 MR. CALDERONE: Objection.

13 MR. LAMBERT: Objection.

14 A I don't think they were involved. There were  
15 two ways that we would get a case.

16 One would be direct from the police  
17 officer. Like the suburbs, there was no  
18 bindover. What they investigated on a felony  
19 basis came straight to our office --

20 Q Sure.

21 A -- right from the police department.

22 When it came to the Cleveland Police,  
23 they had a choice. Maybe not consistent with  
24 their rules, but they had a choice. They  
25 could bring the case directly to us, which

1           they probably did most of the time. I  
2           couldn't give -- but they probably did. So  
3           they would investigate the case and come  
4           straight to us. They would bypass the city  
5           prosecutor.

6                     If it was going to be a bindover, then  
7           the city prosecutor was there, along with --  
8           we always had a person in the bindover room in  
9           Cleveland Municipal Court. So the judge would  
10          hear whatever evidence was being presented at  
11          that time to bind over that felony case to the  
12          county.

13   Q       Right.

14   A       Follow me? It didn't matter what the judge  
15          did. If he said there is not evidence, I am  
16          not binding it over, they could still bring it  
17          directly to us. So his decision -- well, it  
18          wasn't a frivolous one, but it was meaningless  
19          because they could always bring it over to us.

20                     And finally we cut that out because it  
21          was a waste of time, us going over there and  
22          sending one or two prosecutors over there  
23          every day of the week to wait for bindovers.  
24          Just bring us the case, and that is what they  
25          would do.

1                   So at one time the city prosecutor was  
2                   involved because one of his assistants was in  
3                   the bindover room to present enough evidence  
4                   to the court to bind over the case to the  
5                   county.

6   Q           That's not the preliminary hearing though, is  
7                   it?

8   A           A preliminary hearing?

9   Q           Yeah.

10   A          Yeah, you could call that a preliminary  
11               hearing, a bindover.

12   Q          Okay. So then if --

13   A          We didn't have one. When it came to us, it  
14               went right to the Grand Jury. There was no  
15               hearing.

16   Q          Right. Okay.

17               So if in this case where the city  
18               prosecutor would just bring a case or somehow  
19               the county prosecutors got it from the city  
20               prosecutor, do you know how the file was  
21               transferred to the county prosecutor?

22   A          You know, I'm guessing. Other than a  
23               notation, I don't think the city prosecutor  
24               had a file. It was the -- for example, a  
25               homicide case, they would present just barely

1           enough evidence to say, yes, there was a  
2           murder here, or a homicide, and this is the  
3           person who did it. And the judge not having  
4           jurisdiction over felony, would bind it over  
5           and say, all right, take it over to county.  
6           But they didn't walk in there with a file,  
7           they just walked in there with a police  
8           officer.

9                       And like I say, it got to the point  
10          where we no longer needed it because it didn't  
11          matter what the municipal court did.

12    Q       Right. You could do whatever, prosecutor got  
13           it.

14    A       Right.

15                       MS. GELSOMINO:     All right. I don't  
16          think I have any further questions for you  
17          right now. Thank you, Carmen.

18                       THE WITNESS:        Okay.

19                       REDIRECT EXAMINATION

20    BY MR. CALDERONE:

21    Q       I have some things to follow up with you on,  
22           Carmen.

23    A       Oh, good.

24    Q       A few moments ago you explained that if you  
25           were at trial and there was some inconsistent



1           -- some testimony from a witness that was  
2           inconsistent with a prior statement, that that  
3           was a matter that would be brought up to the  
4           trial judge by the prosecutor?

5    A       It didn't have to be inconsistent.  Once the  
6           witness testified, we had to submit the  
7           statement.  It wasn't us to determine whether  
8           there is an inconsistency.

9                   As soon as the witness finished  
10           testifying on direct, we went to side bar and  
11           that document was presented to the judge.  It  
12           was up to the judge to either review it or  
13           just give it to defense counsel and say what  
14           inconsistencies do you see between the  
15           testimony you just heard and this statement.

16                   So it wasn't a matter of us determining  
17           if there is an inconsistency.  As soon as they  
18           testified, the defense attorney was entitled  
19           to the statement.

20   Q       You were asked questions earlier about being  
21           aware of whether witnesses who testified in  
22           the criminal trial of Andrews were  
23           intimidated.  And you said that you did not  
24           know of any.

25                   My understanding from the answer is you

1 don't have any recollection one way or the  
2 other whether any of the witnesses who  
3 testified in the Andrews' case were or were  
4 not ever intimidated?

5 A Yeah, at minimum that would be that way.

6 Q You were asked questions about Exhibit L-7.  
7 About the notes in the middle of the page  
8 regarding the palm print.

9 But when you were being asked those  
10 questions, you were not given the opportunity  
11 to look at all of your notes about SIU  
12 communications. So I'm going to put in front  
13 of you, along with Exhibit L-7, Exhibit L-2.

14 You've testified before that Exhibit  
15 L-2 is your handwriting, correct?

16 A Yes, L-2.

17 Q You testified at the bottom of the page that  
18 there is a notation that you made from  
19 speaking to the SIU Unit, correct?

20 A Right. "Palm print too smeared to be compared  
21 for SIU 2-20-75."

22 Q Now when you were asked questions about L-7,  
23 you were asked what date you may have made the  
24 notes in the middle of the page on L-7.

25 A Yeah, they are comparable.

1 Q Looking at Exhibit --

2 A Yeah, I have got no definite. But, I mean, if  
3 that's the date I made that observation.

4 Q Would it be a fair and logical assumption that  
5 the handwritten notes you made on Exhibit L-7  
6 were made either on or after the -- what is  
7 the date, February 20, 1975?

8 MS. GELSOMINO: Objection.

9 Q Is that the date here?

10 A Yes, it is.

11 It's a fair one. I mean, I can't say  
12 definitely, but it's a fair one.

13 Q And in your notation from speaking to the SIU  
14 Unit, your notation says palm print too  
15 smeared to be compared.

16 Does your notation on L-2 say anything  
17 about the palm print being compared to any --  
18 strike that.

19 Does the notation on L-2 indicate that  
20 the palm print was too smeared to be compared?

21 A That's correct.

22 Q In cases that you typically handled, when you  
23 learned from an SIU Unit that a palm print was  
24 too smeared to be compared, was there any  
25 reason in your experience to ask additional

1           questions on whether that same palm print  
2           could be compared to particular witnesses?

3                   MS. GELSOMINO:     Objection.

4    A       No.  Once they tell us they can't compare it,  
5           they are not going to listen to us anyhow.  I  
6           mean, if they say we can't compare it and we  
7           say, well, we want you compare it with  
8           something else, they are not going to do that.  
9           I mean, they already said it's too smeared or  
10          opaque to be compared.  They are just not  
11          going to do it.

12   Q       From your notation that you made on Exhibit  
13           L-2, is it a fair interpretation of your note  
14           that the SIU Unit was indicating to you that  
15           the palm print was too smeared to be compared  
16           to anyone's print?

17                   MS. GELSOMINO:     Objection.

18   A       That's the inference.  If they say it can't be  
19           compared, that's for everybody.  There is no  
20           exception.

21   Q       You have reviewed several times Exhibit L-7,  
22           which references Willie Watts.  You reviewed  
23           Exhibit L-8, which again references Willie  
24           Watts being arrested.  And you were looking at  
25           Exhibit L-9, which has references of Willie

1 Watts being released by the police.

2 All of these supplemental reports, L-7,  
3 L-8, L-9, these are supplemental reports that  
4 have markings on it from you, correct?

5 A Yes.

6 Q And all of these exhibits, L-7, L-8, L-9, are  
7 all exhibits that were in the prosecutor's  
8 file when you worked on the file back in 1974  
9 or 1975?

10 A Yes.

11 MS. GELSOMINO: Objection.

12 Q Turning your attention to Exhibit L-3. Now,  
13 in your questioning by Sarah here, at some  
14 point you were asked the question do you know  
15 who Mary Smith was. But when you were asked  
16 that question, you were not given the  
17 opportunity to have your notes in front of  
18 you.

19 I'm now showing you your notes that you  
20 previously talked about in Exhibit L-3,  
21 correct?

22 A Right.

23 Q On the bottom of the page of L-3, there are  
24 some handwritten notes that you made about  
25 Mary Smith, correct?

1 A Right.

2 Q Why don't you go ahead and read those notes  
3 for me.

4 A "Called witness 2-19-75. Witness recalls  
5 seeing defendant and victim alive presumably  
6 on the date of murder, and doesn't remember  
7 dates too well, but is positive that she and  
8 Worthy see defendant" -- "saw defendant  
9 talking to wife -- victim around 8:11 a.m. on  
10 date in question." I can't read the rest of  
11 it.

12 Q The rest of it on the bottom of that page?

13 A Yeah, "Seems like a good witness."

14 Q And then the notations on the side here.

15 A Yeah. "Defendant must be lying. This witness  
16 too honest. No reason to lie."

17 Q After reviewing your notes that we see on  
18 Exhibit L-3, I now ask you, do you know who  
19 Mary Smith is or was in this matter?

20 A Yeah. Sure I do. She is a witness. But what  
21 was asking me, in all fairness, what she was  
22 asking me, I don't know who Mary Smith is. I  
23 mean, I don't remember sitting down and  
24 talking to her and meeting with her. But I  
25 know from this I had to talk to her

1           extensively to get this much information down.

2       Q       You were also asked questions several times  
3           about whether you remember when you made  
4           certain notations that we see on Exhibits L-1  
5           through L-13. And it's true, is it not, that  
6           in some of these notes you mention specific  
7           dates?

8                       For example, if we look at Exhibit L-2  
9           again --

10      A       Right.

11      Q       -- your reference on Exhibit L-2 of speaking  
12           with the SIU Unit has a date on it, correct?

13      A       Right.

14      Q       If we look at Exhibit L-3, that we just noted  
15           on the bottom of the page, you made a notation  
16           of the date you spoke to Mary Smith, correct?

17      A       Right.

18      Q       So it's true, is it not, that in Exhibits L-1  
19           through L-13 that there are some specific  
20           references of dates when you made the  
21           notations?

22      A       There are.

23      Q       For all of those other notations that we see  
24           in Exhibits L-1 through L-13, even though you  
25           may not recall the specific date, it's true,

1           it is not, that all of your notations were  
2           made before Isaiah Andrews went to trial for  
3           the murder of his wife?

4     A       Yes.

5                     MR. CALDERONE:       Give me one second.  
6           Let's take a quick break. I may be done.

7                     THE VIDEOGRAPHER: We're off the record  
8           at 3:12.

9                     (Recess taken.)

10                    THE VIDEOGRAPHER: We're back on the  
11           record 3:13.

12                    MR. CALDERONE:       Those are all  
13           questions I have.

14                    MR. MENZALORA:       Nothing from the  
15           City.

16                    MS. GELSOMINO:       You have nothing,  
17           right?

18                    MR. LAMBERT:         No.

19                    MS. GELSOMINO:       I don't have any  
20           further questions for you, Carmen.

21                    I just want to be clear, you -- this  
22           was not noticed as a trial deposition. So to  
23           the extent that you believe it to be so, I  
24           object.

25                    MR. CALDERONE:       Okay. I don't know



1           that the Federal Rules designate a trial  
2           deposition.

3                   MS. GELSOMINO:       Okay.   Just for the  
4           record.   There it is.

5                   Thanks very much.

6                   THE WITNESS:         Okay.

7                   MR. CALDERONE:       Mr. Marino, would you  
8           like the opportunity to review this  
9           transcript?

10                  THE WITNESS:         No.

11                  MR. CALDERONE:       You want to waive  
12           that right?

13                  THE WITNESS:         Right.

14                  MR. LAMBERT:         You have the right to  
15           review it and make corrections.   But to do  
16           that, you have got to order the transcript.

17                  THE WITNESS:         Then who is going to  
18           pay for it?

19                         How big is this transcript going to be?  
20           It's going to be this big, isn't it?   You can  
21           answer the question.   You can say anything you  
22           want.

23                  MR. CALDERONE:       We will order the  
24           transcript.   And if you'd like you can reserve  
25           the right to review it and waive it later.

1                   THE WITNESS:           That's fine, that's  
2           what I'll do.  
3                   MR. LAMBERT:           Most people waive.  
4                   THE WITNESS:           That's fine.  
5                   THE VIDEOGRAPHER: We are off the record  
6           at 3:15.  
7                   (Deposition concluded at 3:15 p.m.)  
8                   (Signature not waived.)  
9                               - - -  
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1 SIGNATURE PAGE

2 In Re: Isaiah Andrews vs. City of Cleveland

3 Case Number: 1:22-CV-00250

4 Deponent: Carmen Marino

5 Date: 3/3/23

6

7 To the Reporter:

8 I have read the entire transcript of my  
9 Deposition taken in the captioned matter or the same  
10 has been read to me. I request that the following  
11 changes be entered upon the record for the reasons  
12 indicated.

13 I have signed my name to the Errata Sheet and  
14 the appropriate Certificate and authorize you to  
15 attach both to the original transcript.

16

17

18

19

20 \_\_\_\_\_  
Carmen Marino

21 Subscribed and sworn to before me this

22 \_\_\_\_\_ day of \_\_\_\_\_, 2023.

23

24 \_\_\_\_\_  
Notary Public

25 My commission expires: \_\_\_\_\_.

1 I have read the foregoing transcript from page 1  
 2 through page 375 and note the following corrections:

3 PAGE-LINE REQUESTED CHANGE REASON FOR CHANGE

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Carmen Marino

Date

1 State of Ohio, )  
2 County of Cuyahoga, ) SS: CERTIFICATE

3 I, Constance Versagi, Court Reporter and  
4 Notary Public in and for the State of Ohio, duly  
5 commissioned and qualified, do hereby certify that  
6 the within named witness, Carmen Marino, was by me  
7 first duly sworn to testify the truth, the whole  
8 truth, and nothing but the truth in the cause  
9 aforesaid; that the testimony then given by him was  
10 by me reduced to stenotypy/computer in the presence  
11 of said witness, afterward transcribed, and that the  
12 foregoing is a true and correct transcript of the  
13 testimony so given by him as aforesaid.

14 I do further certify that the testimony given  
15 by the witness was video/audio recorded and that the  
16 video recording hereto attached is a true and  
17 correct visual and audio reproduction of the  
18 testimony given by him.

19 I do further certify that this deposition was  
20 taken at 3340 Rocky River Drive, Cleveland, Ohio on  
21 February 28, 2023, and was completed.

22 I do further certify that I am not a relative,  
23 counsel, or attorney of either party, or otherwise  
24 interested in the event of this action.

25

1           IN WITNESS WHEREOF, I have hereunto set my  
2 hand and affixed my seal of office at Cleveland,  
3 Ohio, on this 3rd day of March, 2023.

4  
5 

6           Constance Versagi, Court Reporter and  
7           Notary Public in and for the State of Ohio.  
8           My Commission expires January 14, 2028.



	188:1;274:13; 321:3;325:5,6,19	171:13,14;190:1	175:1;182:2,7; 185:18;195:21; 199:9;200:4;229:2;	<b>approving (4)</b> 265:17,20;289:18; 325:7
<b>A</b>	<b>addition (2)</b> 196:18;217:3	<b>ago (1)</b> 361:24	231:16;255:6;259:7; 260:6,11,13;277:24; 363:3	<b>approximate (1)</b> 176:12
<b>abbreviation (1)</b> 245:2	<b>additional (3)</b> 191:22;254:3; 364:25	<b>agree (8)</b> 201:4;226:3;279:7; 284:4,15;292:24; 293:20;316:6	<b>animosity (1)</b> 215:25	<b>approximately (2)</b> 199:8,19
<b>abide (1)</b> 334:3	<b>address (6)</b> 243:19;245:8,20, 25;246:1;270:6	<b>ahead (18)</b> 179:18;190:13; 192:1,23;195:3; 204:16;206:18; 216:17,18;221:5; 229:9,11;273:10; 286:15;291:21; 315:10;348:12;367:2	<b>Annotated (1)</b> 330:9	<b>arcane (1)</b> 230:14
<b>able (4)</b> 286:8,21;298:16; 310:20	<b>administration (1)</b> 346:12	<b>alibi (4)</b> 197:2,24;275:16; 277:14	<b>anodized (1)</b> 330:8	<b>area (1)</b> 247:21
<b>above (1)</b> 288:11	<b>administrator (1)</b> 181:6	<b>alibis (1)</b> 275:15	<b>answered (5)</b> 250:4;278:8; 291:14;292:5;295:9	<b>arenas (1)</b> 327:8
<b>absolutely (6)</b> 239:15;296:19; 331:15;334:4;340:1; 352:22	<b>adopted (1)</b> 346:6	<b>alive (2)</b> 231:4;367:5	<b>apart (1)</b> 241:18	<b>argument (3)</b> 310:10;339:18,18
<b>access (1)</b> 230:22	<b>adopting (1)</b> 346:1	<b>Allen (1)</b> 349:11	<b>apologize (2)</b> 268:22;313:10	<b>arising (1)</b> 356:21
<b>accidentally (2)</b> 245:24;335:6	<b>Adrine (3)</b> 180:10;181:21; 186:8	<b>Allen's (1)</b> 352:8	<b>apparent (1)</b> 236:20	<b>arose (1)</b> 354:14
<b>according (1)</b> 289:13	<b>Adrine's (1)</b> 244:17	<b>allow (1)</b> 310:4	<b>apparently (4)</b> 206:10;278:23; 283:25;292:20	<b>around (9)</b> 168:23;169:1; 176:19;202:12; 231:5;285:18; 301:12;308:4;367:9
<b>accounts (1)</b> 337:25	<b>advance (2)</b> 219:25;221:17	<b>allowed (2)</b> 336:19;339:23	<b>appeal (3)</b> 202:19;335:23; 336:4	<b>arraignment (1)</b> 191:8
<b>accuracy (1)</b> 275:13	<b>advise (1)</b> 219:9	<b>Almost (3)</b> 214:11;247:16; 310:7	<b>appeals (8)</b> 200:18;240:22; 324:3,4;335:15,19, 22,24	<b>arrest (9)</b> 265:4,12,15,25; 280:6,10;282:15; 286:17,20
<b>accurate (7)</b> 223:4;229:23; 235:1;255:3;273:6; 275:18,21	<b>afraid (3)</b> 177:17;245:18,19	<b>along (5)</b> 187:3,7;325:21; 359:7;363:13	<b>appear (1)</b> 305:18	<b>arrested (4)</b> 286:15;317:1,2; 365:24
<b>accurately (1)</b> 209:12	<b>Africa (7)</b> 230:10,25;231:23; 232:6;236:23;237:2; 322:9	<b>alternate (5)</b> 278:5,17,21;279:1, 8	<b>appeared (1)</b> 286:9	<b>arrive (1)</b> 277:11
<b>accused (1)</b> 169:20	<b>afternoon (2)</b> 171:23;347:24	<b>although (2)</b> 317:19;319:21	<b>appears (6)</b> 253:21;267:22; 288:8,13;306:3; 309:6	<b>aside (2)</b> 344:24;350:25
<b>acquitted (1)</b> 234:5	<b>afterwards (1)</b> 339:24	<b>always (9)</b> 167:5;175:16; 196:1;199:15; 275:19;276:23; 302:5;359:8,19	<b>appellate (5)</b> 200:25;201:1,23; 202:2;335:21	<b>aspects (2)</b> 187:12;234:11
<b>across (2)</b> 301:11;317:12	<b>again (12)</b> 166:10;191:4; 234:3;276:19; 289:22;304:12,15; 313:5;321:17; 337:13;365:23;368:9	<b>among (1)</b> 323:16	<b>appellee (1)</b> 202:17	<b>assigned (17)</b> 166:15;172:15; 173:12;174:17; 179:2,13;181:15,18; 191:9;204:3;260:13; 261:10;265:8;289:5; 290:7,12;323:9
<b>action (1)</b> 354:12	<b>against (12)</b> 190:25;226:21; 227:5,8,20,21; 228:18;277:25; 280:8;315:23;317:5; 358:8	<b>amount (1)</b> 185:19	<b>appellees (1)</b> 203:6	<b>assignments (1)</b> 181:11
<b>actions (6)</b> 207:25;208:4; 322:10,16;323:1,5	<b>age (1)</b> 166:5	<b>Andrews (25)</b> 178:13;195:20; 226:21;229:7; 231:10,25;236:16; 242:16;259:22; 260:10;277:13; 278:4;282:6;284:25; 286:7;316:23; 317:13;318:15; 319:1,6;320:23; 322:11;340:11; 362:22;369:2	<b>applicable (1)</b> 172:8	<b>assist (1)</b> 325:20
<b>actual (2)</b> 306:5;316:18	<b>agency (1)</b> 356:1	<b>Andrews' (16)</b>	<b>appreciate (1)</b> 170:10	<b>assistant (10)</b> 177:21;247:22; 324:6,7,10,11,13; 325:15,21;336:22
<b>actually (29)</b> 168:11;209:19; 218:25;238:10; 246:8;247:14; 249:23;254:13; 255:15;256:18; 261:1,5,11;266:19; 275:2;276:17;280:5; 286:15;290:3;293:5; 301:2;306:2,5;312:3, 10;323:21;331:23; 332:4;345:3	<b>Agent (10)</b> 228:24;229:21; 230:21;231:11,17,21, 24;234:19;235:15; 243:10		<b>apprising (1)</b> 333:20	<b>assistants (2)</b> 181:10;360:2
<b>Adam (1)</b> 267:10	<b>agents (1)</b> 229:18		<b>approval (3)</b> 188:5;213:4; 326:25	<b>assume (3)</b> 205:19;249:11; 317:2
<b>add (4)</b> 170:2;251:16; 252:20;301:20	<b>agent's (1)</b> 235:9		<b>approvals (1)</b> 327:2	<b>Assumes (1)</b> 278:9
<b>added (6)</b>	<b>aggravated (3)</b>		<b>approve (3)</b> 289:11,14;325:10	<b>assuming (3)</b> 245:3;291:17;

<p>315:4 <b>assumption (1)</b> 364:4 <b>attach (2)</b> 256:6,9 <b>attached (4)</b> 253:8,9;259:24; 266:3 <b>attempting (1)</b> 283:25 <b>attention (8)</b> 192:11;195:13; 219:18;230:6;243:2; 330:5;338:10;366:12 <b>attitude (1)</b> 296:2 <b>Attorney (12)</b> 242:21;251:17; 252:21;279:14; 280:20;310:5,7; 317:25;323:14; 339:22;354:10; 362:18 <b>attorneys (5)</b> 175:14,17;177:8; 296:15;306:13 <b>automatically (1)</b> 223:17 <b>autopsy (1)</b> 315:8 <b>available (1)</b> 268:2 <b>Avenue (1)</b> 243:23 <b>avoid (1)</b> 329:13 <b>aware (18)</b> 206:12;217:7,25; 221:20;228:17; 273:7;274:21;278:3, 25;287:20;321:6,10, 15;322:25;323:4; 354:13;356:20; 362:21 <b>away (4)</b> 180:15;266:9; 284:2;333:16</p>	<p>261:18;266:14; 271:13;273:14; 281:21;289:22; 303:24;313:22; 314:3;320:3;322:9; 324:9;334:13; 335:14;336:20,20,21, 24;345:16;366:8; 369:10 <b>background (7)</b> 225:7;230:20; 240:20;282:6,7; 286:7;321:25 <b>backwards (2)</b> 262:7;318:6 <b>bad (2)</b> 328:17;329:4 <b>bag (1)</b> 226:16 <b>bailiff (1)</b> 239:22 <b>bailiwick (1)</b> 233:8 <b>bar (4)</b> 338:22,23;353:24; 362:10 <b>Barbara (1)</b> 254:16 <b>barely (2)</b> 292:10;360:25 <b>bargain (1)</b> 220:4 <b>bargaining (1)</b> 268:4 <b>base (1)</b> 285:25 <b>based (13)</b> 201:18;206:22; 210:2;236:11;249:3; 254:22;255:16; 278:22;310:5;315:2, 3;319:18;329:8 <b>basic (2)</b> 202:22;266:1 <b>basically (2)</b> 250:9;339:8 <b>basics (1)</b> 166:24 <b>basing (1)</b> 311:12 <b>basis (5)</b> 179:19;261:25; 327:15;330:2;358:19 <b>basketball (2)</b> 349:16,17 <b>Bates (9)</b> 191:10,12;210:17; 214:1;222:15; 253:15;304:4;343:2, 15 <b>became (6)</b> 197:7;233:12; 260:3;320:11;</p>	<p>354:13,22 <b>becomes (1)</b> 358:10 <b>beginning (6)</b> 189:11;213:20; 242:2,4;273:14; 337:13 <b>behind (2)</b> 292:13;334:18 <b>Bell (1)</b> 197:21 <b>Below (2)</b> 243:5;288:22 <b>bench (1)</b> 346:3 <b>bend (2)</b> 174:11,13 <b>benefit (1)</b> 259:9 <b>Besides (1)</b> 325:6 <b>best (1)</b> 292:15 <b>bet (1)</b> 290:5 <b>better (6)</b> 178:22,23;325:18; 327:19;349:17;352:8 <b>Betty (9)</b> 215:16;216:7; 217:22,24;226:24; 227:18;228:4,18; 321:11 <b>big (7)</b> 169:23;172:1; 266:9;349:16;352:9; 370:19,20 <b>Bill (10)</b> 261:2,4,17,20,25; 264:20;274:21,24; 297:2,8 <b>bind (4)</b> 190:15;359:11; 360:4;361:4 <b>binder (13)</b> 202:1;208:14,17; 209:1,2;210:20; 237:13,20;239:11; 241:3;242:2;266:9, 14 <b>binders (2)</b> 172:1;203:13 <b>binding (2)</b> 190:19;359:16 <b>bindover (5)</b> 358:18;359:6,8; 360:3,11 <b>bindovers (1)</b> 359:23 <b>bit (1)</b> 248:23 <b>Black (2)</b> 285:8;350:6</p>	<p><b>Blacks (7)</b> 230:9,24;231:23; 232:6;236:22;237:1; 322:9 <b>blood (5)</b> 300:25;301:1,9,10; 315:20 <b>bloody (2)</b> 295:15;298:12 <b>blunt (1)</b> 299:2 <b>bluntly (1)</b> 197:18 <b>Bob (3)</b> 175:20;324:22; 325:15 <b>body (6)</b> 287:10,10;316:22; 317:13,21;318:14 <b>bombed (2)</b> 233:25;234:17 <b>bombing (2)</b> 234:8,12 <b>book (1)</b> 326:15 <b>booth (2)</b> 197:5,10 <b>Borland (2)</b> 262:16;263:2 <b>both (8)</b> 187:13;193:15; 204:4;206:1,2; 223:15;301:6;308:12 <b>bottom (16)</b> 201:22;219:9; 252:1;288:4;289:6; 290:24;303:4,4,12; 343:3,17;345:20; 363:17;366:23; 367:12;368:15 <b>bound (2)</b> 170:8;191:3 <b>box (1)</b> 174:9 <b>boxed (2)</b> 243:1;245:2 <b>boxes (1)</b> 174:14 <b>bracket (1)</b> 283:15 <b>Brady (3)</b> 356:14,18;357:17 <b>Brand (1)</b> 166:21 <b>break (7)</b> 175:18;197:3; 208:11,13;237:6; 319:24;369:6 <b>brief (2)</b> 202:16;203:6 <b>bring (19)</b> 189:10;191:5,22; 192:5,7,16;193:18;</p>	<p>194:2;195:15;213:3; 220:23;298:10,11; 358:7,25;359:16,19, 24;360:18 <b>bringing (1)</b> 192:10 <b>broken (2)</b> 178:18,25 <b>brother (1)</b> 349:17 <b>brothers (1)</b> 194:13 <b>brought (4)</b> 189:4,20;314:17; 362:3 <b>Building (2)</b> 259:17,17 <b>buildings (1)</b> 188:11 <b>bullet (2)</b> 184:10,12 <b>bunch (2)</b> 200:11;343:4 <b>bunched (1)</b> 285:17 <b>burglary (1)</b> 169:16 <b>burned (1)</b> 196:12 <b>business (3)</b> 190:17;315:21; 334:14 <b>bypass (1)</b> 359:4</p>
<b>C</b>				
<p><b>Cables (4)</b> 345:21,25;346:14, 15 <b>CALDERONE (116)</b> 179:17;185:25; 187:23;190:13; 191:25;192:20,25; 193:20;194:8; 195:18;199:17; 200:15;201:9; 202:14;203:15; 204:12,16;205:23; 206:17;208:23; 209:22;210:16; 211:12;212:21; 213:6,25;214:17; 216:14,17;217:9,16; 218:11;222:13; 226:5;228:2,9,20; 229:8,17;230:3; 231:19;234:25; 237:19,23;240:5; 250:3,7;253:14; 254:8;258:6,10; 260:7;265:11; 269:24;271:1;273:9;</p>				



276:9;277:18;278:7; 279:11;280:13; 282:25;284:18; 286:25;290:14,19; 291:13;292:4;293:4; 294:7;295:8;298:25; 301:3;302:16,25; 303:3,7;304:3,13; 307:16,19;311:1; 312:7,25;313:6,24; 322:22;323:3; 330:24;332:16; 335:8;337:7;338:16; 340:7;341:11,24; 345:5;347:14; 348:11;350:20; 352:19;353:17; 354:17;355:22; 356:4,16,24;357:20; 358:12;361:20; 369:5,12,25;370:7, 11,23	<b>can (68)</b> 173:2,16;179:6; 193:1;194:11;201:4; 206:19;208:14,14,19, 23;212:18,20,24; 215:21;217:16; 224:5;232:14;236:6; 238:9,13;240:2,25; 242:1;245:6,14; 246:19;247:21; 248:7,12;249:15,20; 252:3;253:18; 255:17;256:16; 259:2;260:9;261:4; 263:14;264:24; 266:9;267:2;269:5; 273:13;279:6; 285:22;292:15; 302:13;311:2,23; 313:12,19;332:1,10; 333:6,23;340:12,18; 342:8;344:24; 346:20;349:16; 355:25;357:14; 370:20,21,24	25;205:6,12,17; 206:10,12,20,20; 207:13,14,15,25; 208:4;214:12; 219:17,22,23;220:4, 7,8;221:23;224:3; 225:10,25;226:4; 228:7,12,16;230:22; 232:8,16;233:1,24; 236:8;239:9;240:24; 241:13,13;243:4; 246:8,21;248:4,8,10; 252:6,10;254:15; 255:6,10,18;256:1, 11,13;258:24,24,25; 259:7,19,20,21; 260:11,13,18,21,23; 261:2,10;262:14,18, 20,23;263:19,23; 264:4,7;265:9,24; 272:9,22;273:2,7; 274:22;275:20,22; 276:1;277:13;278:4; 279:25;281:10,21; 282:5,16;287:2,4,6,8; 289:25;295:4;296:2, 15;297:10;298:7; 301:24;302:5,6,12, 23;305:24;306:22; 308:5;311:3;315:3, 12;318:2;320:23; 321:7,13;322:11,16; 323:1,5,13,18;326:2, 5;327:6,7,10,16,18; 331:12,17;340:5,14, 20;341:8;342:12; 344:19;346:10,18,21; 347:4,19;358:4,15, 25;359:3,11,24; 360:4,17,18,25;363:3	<b>certain (5)</b> 248:4;270:12; 325:11;350:12;368:4 <b>certainty (2)</b> 212:25;267:2 <b>certified (1)</b> 166:6 <b>certify (3)</b> 245:12,15;246:3 <b>chair (1)</b> 186:7 <b>change (6)</b> 184:24,24;332:18; 333:18;334:2;352:24 <b>changed (1)</b> 171:11 <b>changes (2)</b> 218:5;262:2 <b>changing (1)</b> 337:23 <b>character (1)</b> 282:4 <b>characterize (1)</b> 280:17 <b>charge (4)</b> 224:8;248:22; 249:12;340:8 <b>charges (12)</b> 190:25;191:1; 226:25;227:5,8,10, 19;228:17;265:17, 20;280:7;358:7 <b>Charles (1)</b> 260:15 <b>Charlie (10)</b> 180:4;181:1;186:5, 11,19;204:2;205:7; 262:25;268:16; 301:24 <b>chart (1)</b> 173:21 <b>check (17)</b> 174:7;197:9,19; 198:1;223:5,6; 224:10,14,17;251:15; 253:2;268:25;269:5, 10;297:25;302:13; 343:18 <b>checked (1)</b> 197:19 <b>chemical (2)</b> 321:19;322:4 <b>Chief (9)</b> 197:8;230:21; 255:4;320:12;324:5; 325:11,17,24;332:7 <b>chiefs (1)</b> 324:2 <b>choice (2)</b> 358:23,24 <b>chronologically (1)</b> 212:10 <b>Chuck (2)</b>	208:7;244:14 <b>circle (1)</b> 242:22 <b>circled (1)</b> 243:21 <b>circles (1)</b> 244:13 <b>circumstances (2)</b> 242:25;245:9 <b>cities (1)</b> 333:20 <b>City (18)</b> 167:1,2;190:11; 191:1;204:21; 229:22;284:2; 320:13;358:3,8,11; 359:4,7;360:1,17,19, 23;369:15 <b>CK (1)</b> 223:2 <b>claim (2)</b> 198:16;295:20 <b>clarification (1)</b> 313:19 <b>clarifications (1)</b> 209:10 <b>clarify (1)</b> 319:18 <b>clarifying (2)</b> 209:6;220:18 <b>clarity (2)</b> 292:23;295:13 <b>clear (20)</b> 175:8;205:5; 222:13;229:10; 243:12;279:17; 280:3;292:11,19; 293:17;294:12,15,23; 295:7,17;297:17; 298:1;299:25; 300:15;369:21 <b>clearly (2)</b> 200:11;247:10 <b>clerk (2)</b> 267:11,16 <b>Cleveland (18)</b> 167:1;190:15,17, 18;197:8;229:19; 231:12;235:6; 243:24;265:4,14; 320:9,10,10;351:4,5; 358:22;359:9 <b>Cleveland's (1)</b> 229:22 <b>close (2)</b> 275:12;349:13 <b>closer (1)</b> 220:25 <b>closing (1)</b> 339:18 <b>clothing (1)</b> 253:6 <b>Cloud (11)</b>
<b>call (27)</b> 197:11;216:21,25; 220:24;224:25,25; 225:20;232:22; 233:15;235:3; 268:17;270:5;277:3; 301:25;302:4,9; 314:4;315:7;316:7; 319:3,9;321:24; 338:22;339:25; 347:17,22;360:10 <b>called (20)</b> 190:15;195:12; 197:4,5;230:6;233:1; 234:19;268:11; 273:3,25;307:22; 308:21;314:8;316:4, 11;318:23;319:8,11; 341:23;367:4 <b>calling (7)</b> 231:21;243:2; 299:13;319:9,19,19; 347:18 <b>Calls (4)</b> 280:14,15,16; 324:17 <b>came (32)</b> 166:19;171:10; 179:7;187:18; 188:14,19,22;191:12; 196:4;197:2;203:11, 14;204:6,20;211:17; 225:15;252:23; 270:23;271:25; 316:25;321:5;322:5; 328:10;332:6;333:3; 334:12;335:16; 336:1;354:5;358:19, 22;360:13 <b>Campbell (1)</b> 254:16	<b>capital (1)</b> 327:10 <b>card (2)</b> 198:15;335:18 <b>cardboard (1)</b> 241:23 <b>cards (2)</b> 198:6,10 <b>care (3)</b> 291:21;326:23; 331:1 <b>career (4)</b> 207:4;287:3; 322:17;329:22 <b>CARMEN (10)</b> 166:4,10;203:4; 209:1;214:24;259:3; 301:8;361:17,22; 369:20 <b>Caroline (1)</b> 243:23 <b>case (220)</b> 166:15;167:20,21, 24;168:9,13;170:5, 24;171:7;172:22; 174:3,7;175:2,11; 176:25;178:1,13; 179:14;180:4,6,10, 11,14,18,24;181:1, 21,23,23;182:1,2,7,9, 11,16,20,22,23; 183:3;185:9,18,21; 186:1,14,16,20; 187:11,12,14;189:12; 191:9;195:15,18,21, 25;196:1,20;197:1; 199:5,9;200:12,14, 21;202:12;204:2,20,	<b>cases (45)</b> 167:7;168:20; 169:7;170:1;171:21; 173:13,15,17,23; 174:17;177:17,24; 178:3;180:17; 183:14;184:21; 191:5;192:3;196:2; 206:22;207:11; 219:25;229:4;233:5, 8,23;235:13;248:4; 259:5;287:9;323:10, 16;325:1;326:11,12; 327:21;330:16,21; 335:24;341:21; 346:8;347:8,23; 350:12;364:22 <b>catch (1)</b> 209:6 <b>category (1)</b> 173:15 <b>Center (2)</b> 333:9;336:15		

223:2,3;224:10; 225:11,14;226:3; 228:4,8,19;281:25; 321:16 <b>coat (1)</b> 284:1 <b>code (1)</b> 330:6 <b>coin (1)</b> 291:2 <b>colleague (1)</b> 176:24 <b>colleagues (1)</b> 233:13 <b>Colonial (1)</b> 267:11 <b>combination (1)</b> 238:22 <b>coming (7)</b> 171:22;219:20,25; 221:24;226:15; 312:19;320:24 <b>committed (8)</b> 189:25;236:10; 282:5;283:21;284:6; 285:2,6;286:2 <b>common (5)</b> 182:15;216:2; 328:24,25;341:10 <b>communicate (2)</b> 284:7,12 <b>communications (1)</b> 363:12 <b>Comodeca (2)</b> 350:22,23 <b>comparable (9)</b> 292:17;294:20; 299:21,24;309:15,24; 311:5;317:9;363:25 <b>compare (27)</b> 204:17;253:23; 257:16;292:19,23; 293:18;294:1,12,15; 295:7,17;298:23; 299:4;300:1,15; 309:5;311:3,6,8; 314:21;316:16,19; 317:7;318:25;365:4, 6,7 <b>compared (25)</b> 185:4;215:22; 217:21;273:11; 274:4,16;293:10; 294:3;295:1,22; 298:21;300:3; 310:21;311:24; 316:13;319:5; 363:20;364:15,17,20, 24;365:2,10,15,19 <b>comparing (1)</b> 317:10 <b>comparison (3)</b> 304:23;315:19,20	<b>compass (2)</b> 329:3,9 <b>complain (1)</b> 326:4 <b>complaints (1)</b> 324:14 <b>complete (9)</b> 170:23;203:24; 249:12,12;266:2; 276:23;305:16,18; 334:12 <b>completed (2)</b> 167:21;261:1 <b>complicated (1)</b> 184:22 <b>complications (1)</b> 182:17 <b>compound (1)</b> 212:22 <b>concentrated (1)</b> 317:12 <b>concentrating (1)</b> 236:8 <b>concluded (2)</b> 299:22;371:7 <b>conclusion (15)</b> 185:3;220:5; 280:16;284:4; 294:11,13;299:3,11; 300:6,18,22;302:4; 311:4,15;312:11 <b>conclusions (1)</b> 304:21 <b>condense (1)</b> 194:1 <b>conduct (1)</b> 357:8 <b>conducted (1)</b> 200:3 <b>conference (1)</b> 338:22 <b>confirm (1)</b> 273:5 <b>conflict (1)</b> 223:18 <b>confusing (1)</b> 217:20 <b>connecting (2)</b> 279:1;287:21 <b>connection (4)</b> 236:4,5;237:1; 320:25 <b>conscious (1)</b> 198:13 <b>consider (2)</b> 279:17;340:19 <b>considered (3)</b> 338:14,19;348:21 <b>consistent (5)</b> 208:1,5;322:11,18; 358:23 <b>consultation (2)</b> 213:4;216:25	<b>contact (10)</b> 183:8;219:10; 267:13,14,15,19; 268:11;269:9;289:4; 314:12 <b>containing (1)</b> 166:21 <b>contains (1)</b> 209:3 <b>continue (1)</b> 271:17 <b>continuing (1)</b> 328:6 <b>conversation (6)</b> 186:10;235:21; 236:25;294:25; 295:24;313:11 <b>conversations (4)</b> 217:2;295:4; 296:18,21 <b>convicted (1)</b> 234:4 <b>conviction (1)</b> 357:9 <b>convictions (1)</b> 356:20 <b>Coolis (1)</b> 194:15 <b>COP (1)</b> 174:23 <b>copies (5)</b> 172:24;189:6; 250:6;296:6;334:18 <b>copious (1)</b> 341:2 <b>copy (8)</b> 192:8;193:2,14; 209:20;210:1;250:5; 253:24;296:9 <b>corner (4)</b> 167:4,16;343:3,16 <b>coroner (6)</b> 254:16;272:21,25; 273:3;276:1;302:21 <b>coroner's (10)</b> 170:22;253:7; 254:17;272:25; 276:5,18,20;301:16; 305:20;306:11 <b>corrections (1)</b> 370:15 <b>Corrigan (13)</b> 219:8,13;242:21; 244:23;245:4,17; 323:23;325:25; 326:3;332:1;333:19; 334:5;357:6 <b>Corrigan's (2)</b> 219:15;261:7 <b>Counsel (6)</b> 209:19;245:14; 253:11;306:15; 339:3;362:13	<b>count (1)</b> 169:15 <b>counted (1)</b> 259:22 <b>County (16)</b> 167:11;188:20; 190:18;191:1,3,6; 264:9;333:21; 346:12;356:21; 358:9;359:12;360:5, 19,21;361:5 <b>couple (4)</b> 209:9;215:13; 341:21;347:9 <b>course (8)</b> 194:24;197:17; 264:6;317:4;322:17; 329:22;341:1;358:4 <b>court (23)</b> 190:16,19;224:3; 238:22;240:14,20; 241:10;245:11; 246:3;248:25; 249:10,11;260:4; 309:19,22;324:3,4; 330:19;345:17; 346:11;359:9;360:4; 361:11 <b>Courthouse (1)</b> 259:13 <b>courtroom (5)</b> 183:20;260:14; 326:9,18;336:17 <b>Courts (2)</b> 259:4;302:6 <b>court's (2)</b> 238:15;248:8 <b>cover (2)</b> 168:6;256:24 <b>covered (2)</b> 315:17;331:5 <b>Crawford (1)</b> 290:12 <b>create (4)</b> 207:20,23;257:11, 13 <b>created (2)</b> 240:15;257:4 <b>creates (1)</b> 257:6 <b>crime (20)</b> 169:9,11,20;171:8, 15;197:1;229:4; 233:7,24;234:10; 235:12;236:9,10; 269:7;282:5;283:21; 285:2,7;286:3; 287:21 <b>crimes (3)</b> 189:24;191:1,1 <b>criminal (4)</b> 228:17;238:16; 262:3;362:22	<b>criticism (1)</b> 327:13 <b>cross (1)</b> 292:8 <b>cross- (1)</b> 339:5 <b>crossed (10)</b> 291:11,11;292:14, 25;293:15;299:7,19; 303:17;304:18; 311:16 <b>crossed-out (1)</b> 310:17 <b>CROSS-EXAMINATION (2)</b> 166:8;339:13 <b>crossing (1)</b> 303:23 <b>cross-reference (1)</b> 248:8 <b>current (2)</b> 231:9;355:5 <b>cut (6)</b> 248:19;249:8; 302:19;303:6,10; 359:20 <b>Cuyahoga (2)</b> 333:20;356:21
<b>D</b>				
<b>Danny (6)</b> 197:14,22;229:5; 233:20,22;234:6 <b>dare (1)</b> 336:13 <b>dash (1)</b> 208:21 <b>date (37)</b> 167:23;174:4; 188:17,17,18,21; 207:19;212:3,18; 214:15;215:11; 221:1,24;247:17,22; 248:1,14;251:8; 260:20;263:4;272:8; 274:3;277:12; 317:20;318:19,22; 347:10;355:4; 363:23;364:3,7,9; 367:6,10;368:12,16, 25 <b>dated (7)</b> 212:1;213:24; 246:19,20;305:3; 318:8,13 <b>dates (8)</b> 184:24;215:13; 221:8;274:11;321:5; 367:7;368:7,20 <b>Dave (3)</b> 262:16;331:19; 352:7 <b>David (1)</b>				

263:2 <b>day (17)</b> 181:17;189:15; 216:5;221:12,13; 248:9;267:16; 277:17,25;299:7,12, 16;318:13;324:18; 330:19,20;359:23 <b>days (10)</b> 171:24;174:11; 180:15;185:18; 197:13,22;205:20; 299:17;317:16; 327:21 <b>dead (1)</b> 316:22 <b>deal (1)</b> 320:13 <b>dealing (1)</b> 341:17 <b>death (10)</b> 171:10;273:8,21, 24;274:22;275:1,10, 12;278:1;317:20 <b>decades (1)</b> 347:9 <b>deceased (1)</b> 234:2 <b>December (6)</b> 179:22;246:20; 262:10;263:16,16; 317:24 <b>decide (3)</b> 281:1,5;337:15 <b>decided (4)</b> 268:16,16;285:4; 324:19 <b>decides (1)</b> 302:5 <b>decision (4)</b> 181:2;329:4;354:9; 359:17 <b>decisions (1)</b> 240:21 <b>defendant (40)</b> 167:14;169:6,15, 17,18;197:4,5; 214:10;215:23; 226:15;234:4,5; 235:15;236:10; 269:6;292:18; 293:10;294:21; 298:21,22;299:5,21; 300:3;307:24;308:9, 14;309:18;310:20, 23;312:6;316:6,8,17; 330:23;331:3; 348:14;367:5,8,8,15 <b>defendants (3)</b> 169:11,12,19 <b>defendants' (1)</b> 167:15 <b>defendant's (22)</b>	169:9;292:3,21; 293:9,14,25;294:3, 14,17;295:2,18,23; 297:13;300:4; 308:15,16;309:7,24; 310:9,11;311:25; 341:13 <b>defense (32)</b> 194:24;245:14; 251:17;252:21; 253:11;254:5;255:1; 256:14;264:17,18; 279:14;280:10,20; 281:3,11,16;284:8, 13;296:20,22; 305:23;306:6,14; 310:4,7;317:24; 339:3,22;353:24; 354:10;362:13,18 <b>deficient (1)</b> 289:21 <b>definable (2)</b> 309:4;314:20 <b>define (1)</b> 292:11 <b>definite (2)</b> 221:10;364:2 <b>definitely (5)</b> 215:5;243:25; 267:6;347:18;364:12 <b>definiteness (1)</b> 295:13 <b>degree (5)</b> 171:11,12;189:25; 212:25;326:23 <b>deliberately (1)</b> 223:14 <b>deliveries (1)</b> 196:3 <b>delivering (1)</b> 188:2 <b>demonstration (1)</b> 199:6 <b>Department (9)</b> 229:19;231:12; 265:5,15;276:14; 332:5;336:8;348:5; 358:21 <b>departments (1)</b> 332:24 <b>depends (3)</b> 224:23;279:13; 339:20 <b>depo (1)</b> 209:4 <b>Deposition (5)</b> 209:1;342:25; 369:22;370:2;371:7 <b>describe (2)</b> 298:13;340:18 <b>described (3)</b> 183:15;191:21; 289:2	<b>describing (1)</b> 168:3 <b>designate (1)</b> 370:1 <b>desk (4)</b> 188:3,4;191:22; 267:11 <b>destroy (1)</b> 353:7 <b>detective (12)</b> 192:4;194:15; 197:7;219:9;224:15; 225:1;230:21; 268:18;320:9,21; 350:11;352:5 <b>detectives (14)</b> 171:6;188:2;189:5; 190:9;192:15; 193:24;194:16; 196:21;197:6; 221:19;224:16; 340:8,24;341:6 <b>detectives' (1)</b> 167:1 <b>determination (1)</b> 298:1 <b>determine (1)</b> 362:7 <b>determining (2)</b> 275:14;362:16 <b>developed (1)</b> 307:7 <b>dialing (2)</b> 319:14,20 <b>differ (1)</b> 302:11 <b>difference (3)</b> 329:25;348:3; 350:6 <b>differences (2)</b> 218:5;261:23 <b>different (24)</b> 169:7;188:11,12; 206:22,22;207:6,7, 13,19;217:3;255:15; 263:21;274:10,11,22; 276:11;279:20; 298:22;299:16; 311:16;333:10; 338:12,13,24 <b>difficult (3)</b> 174:10;176:6; 240:7 <b>digit (3)</b> 167:5,6,7 <b>direct (2)</b> 358:16;362:10 <b>directing (1)</b> 338:9 <b>directly (2)</b> 358:25;359:17 <b>discipline (2)</b> 355:18;356:8	<b>disciplined (2)</b> 356:14;357:8 <b>disclosed (2)</b> 254:5;280:10 <b>disclosure (3)</b> 254:4,20;255:21 <b>discoverable (4)</b> 331:8;338:19; 339:25;349:9 <b>discovery (14)</b> 245:25;251:14; 252:7,12;253:21; 255:9,18;256:10; 261:13;276:4; 305:23,25;329:24; 332:19 <b>discrepancy (2)</b> 338:3;339:2 <b>discretion (4)</b> 326:11,21;327:8,9 <b>discuss (2)</b> 205:17;333:11 <b>discussed (2)</b> 186:13;297:5 <b>discussion (1)</b> 180:13 <b>dismissal (1)</b> 263:18 <b>dismissed (5)</b> 206:13,15,20,21; 207:14 <b>disposed (3)</b> 167:22;174:7; 287:5 <b>disposition (4)</b> 167:23;168:5; 174:6,6 <b>distance (1)</b> 233:4 <b>distinguish (1)</b> 268:7 <b>distribute (3)</b> 172:17;177:4; 323:16 <b>divide (2)</b> 172:20;334:15 <b>divided (1)</b> 177:9 <b>Division (3)</b> 173:14;174:22; 335:21 <b>divisions (2)</b> 173:11;324:4 <b>docket (3)</b> 174:24;176:5; 238:16 <b>doctors (1)</b> 315:7 <b>document (23)</b> 201:13;202:6; 208:20;211:1,8; 213:15;222:14; 225:23;240:13,15;	248:9;257:3,9; 264:23;270:15,25; 271:18;298:11; 322:1;337:17,23; 339:2;362:11 <b>documentation (6)</b> 183:24;261:14; 267:13;276:6; 306:10;312:20 <b>documented (3)</b> 300:6,7,10 <b>documenting (3)</b> 225:24;268:14; 274:18 <b>documents (27)</b> 184:19;185:11; 188:22;191:10; 193:14;200:12,22; 201:5,12;202:23; 203:21;211:15,17,18, 20;222:12;251:17; 255:16;271:14; 273:11;275:25; 276:3;283:7;289:25; 306:18;321:3;348:19 <b>dog-eared (1)</b> 241:19 <b>domain (1)</b> 336:23 <b>done (20)</b> 180:15;183:2,11; 185:19;186:25; 192:22;197:15; 206:25;207:2; 224:21;233:3; 255:10;299:15,16; 305:3;314:12,15; 317:18;330:10;369:6 <b>double (1)</b> 302:13 <b>doubt (2)</b> 212:18;247:12 <b>down (64)</b> 168:4,18;171:6,14; 172:7;174:11,14; 176:20,23;177:22; 185:8;186:9;189:22, 23;205:25;215:20; 216:3;217:13;230:5, 23;231:4;232:3,23; 238:19;242:21; 243:10;249:24; 252:1,15,23,24; 254:19,24;255:20; 258:8,20;260:24; 266:1;270:25;272:1; 277:4;280:22;293:8, 10;295:11;297:6; 299:14,15;306:11; 308:1;309:12; 311:22;312:4,8; 315:7;316:25; 319:12,19;326:24;
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336:2;337:4;349:1; 367:23;368:1 <b>draft (1)</b> 257:13 <b>draw (1)</b> 310:8 <b>drawn (1)</b> 250:21 <b>drew (1)</b> 250:22 <b>dropped (1)</b> 270:24 <b>Dugan (1)</b> 350:19 <b>duly (1)</b> 166:5 <b>duplicate (1)</b> 241:15 <b>during (2)</b> 222:1;354:14 <b>duties (5)</b> 330:15,23;331:3,4; 354:18 <b>duty (10)</b> 178:20,24;179:12; 198:6,10,11,12; 206:11;324:12; 331:13	305:20;314:3; 319:16;338:4;339:1; 344:4;362:12;364:6 <b>elected (1)</b> 323:25 <b>eliminated (1)</b> 278:24 <b>else (25)</b> 170:15;182:16; 204:18;205:11; 211:9;226:17; 240:22;243:3; 247:11,14;249:2; 255:8;257:5;264:9; 281:14;287:7; 293:11;315:13; 316:13,17,19;318:25; 319:5;326:13;365:8 <b>else's (2)</b> 267:19;268:14 <b>emphasis (1)</b> 275:22 <b>encourage (1)</b> 352:24 <b>end (9)</b> 179:8,23;180:9; 213:22;249:13; 285:14;304:8;343:5; 344:16 <b>ended (1)</b> 242:20 <b>ends (1)</b> 243:12 <b>engaging (1)</b> 227:24 <b>engineer (2)</b> 321:20;322:4 <b>enough (25)</b> 189:17;217:23; 221:17;224:1;256:4; 269:15;286:4; 292:19;293:18; 294:12,15,23;295:7, 12,12,17;297:17; 298:2;299:25; 300:15;309:4;310:3; 314:20;360:3;361:1 <b>ensure (1)</b> 335:5 <b>ensuring (1)</b> 337:3 <b>enter (3)</b> 298:6,7,9 <b>entered (1)</b> 307:8 <b>entitled (3)</b> 251:18;252:22; 362:18 <b>entries (1)</b> 240:20 <b>envelope (2)</b> 169:25;170:10 <b>especially (5)</b>	171:9;196:2;273:3; 302:6;328:7 <b>essence (2)</b> 225:4;226:18 <b>established (2)</b> 182:14;185:4 <b>estimation (2)</b> 179:20;280:4 <b>evaluate (1)</b> 277:24 <b>evaluation (1)</b> 330:10 <b>even (24)</b> 169:6;181:14; 195:24;203:23; 220:20;225:18; 232:17;240:1; 265:22,23;272:5; 284:24;285:5,10; 286:4,21;316:24; 317:12;318:15,21; 325:23;329:12; 341:3;368:24 <b>event (1)</b> 267:16 <b>events (3)</b> 348:18;350:5; 351:18 <b>eventually (3)</b> 223:25;260:3; 320:11 <b>Everybody (3)</b> 178:10;297:14; 365:19 <b>everyone (4)</b> 255:12;256:9; 326:13;333:3 <b>evidence (39)</b> 202:24;218:12; 226:20;253:4,8; 261:16;271:13; 272:18;277:14; 278:10;279:1; 285:24;287:20; 292:22;294:1; 297:15,17,23,24; 298:8,9;300:22; 302:23;307:8,14; 310:20;317:8; 326:17;329:25; 342:13;353:7,11; 354:14,18;355:15; 359:10,15;360:3; 361:1 <b>evidentiary (1)</b> 330:2 <b>evil (1)</b> 329:13 <b>exactly (3)</b> 210:18;298:17; 342:6 <b>examination (2)</b> 339:6;361:19	<b>examined (1)</b> 166:6 <b>example (5)</b> 196:24;245:19; 272:5;360:24;368:8 <b>except (1)</b> 280:22 <b>exception (1)</b> 365:20 <b>exclude (2)</b> 294:16;311:11 <b>excludes (1)</b> 297:14 <b>excluding (1)</b> 296:14 <b>exclusionary (1)</b> 331:9 <b>exculpatory (18)</b> 279:8,18;280:2,11, 17,23,25;281:4,6; 284:15,20;331:9,14; 338:15;339:5,17; 354:14;355:1 <b>Excuse (3)</b> 263:17;296:25; 356:18 <b>Exhibit (61)</b> 171:25;200:11; 201:14,20,21;202:11; 203:10,13;204:9,11; 210:20;211:18; 212:7;213:9;222:11; 237:14,20,23,25; 241:4;242:6;246:14; 250:4,9,19;251:4,5; 264:24;283:8,9; 303:4,21;304:5; 321:1;331:17,23,24; 341:20;342:1,9,13, 24;343:11;345:5,6; 363:6,13,13,14; 364:1,5;365:12,21, 23,25;366:12,20; 367:18;368:8,11,14 <b>exhibits (13)</b> 208:17;209:1,3,8; 211:13;213:8,15; 214:25;366:6,7; 368:4,18,24 <b>exist (2)</b> 227:9;288:16 <b>existed (1)</b> 271:11 <b>existence (3)</b> 200:13;201:5; 279:7 <b>expand (1)</b> 170:1 <b>expansion (1)</b> 170:2 <b>expect (8)</b> 172:4;225:13,16; 255:11;269:21;	271:16;300:17; 341:21 <b>expected (1)</b> 305:14 <b>experience (10)</b> 177:14;192:24; 193:24;194:4; 270:20;326:5,14; 339:7,14;364:25 <b>experienced (4)</b> 177:5,7;206:9; 259:12 <b>experiential (1)</b> 327:25 <b>expert (2)</b> 254:18;297:25 <b>explained (4)</b> 334:5;348:3,7; 361:24 <b>explanations (1)</b> 261:25 <b>extended (1)</b> 220:6 <b>extension (2)</b> 243:8,17 <b>extensive (3)</b> 214:6,13;240:8 <b>extensively (1)</b> 368:1 <b>extent (1)</b> 369:23 <b>extraordinary (3)</b> 178:3;194:11; 351:2 <b>extrapolate (1)</b> 179:6
<b>E</b>				<b>F</b>
<b>earlier (2)</b> 207:8;362:20 <b>early (3)</b> 284:23;285:9,10 <b>easier (1)</b> 246:2 <b>easiest (1)</b> 173:7 <b>East (2)</b> 243:23;350:7 <b>easy (1)</b> 180:18 <b>Eddie (3)</b> 243:22,25;244:3 <b>education (1)</b> 328:6 <b>effective (1)</b> 199:6 <b>efficiency (1)</b> 180:22 <b>effort (1)</b> 186:24 <b>efforts (4)</b> 267:14,18;268:12, 14 <b>egotistical (1)</b> 176:2 <b>Either (17)</b> 219:7;227:23,24; 228:18;239:21; 260:18;263:25; 273:25;299:21;				<b>fabricate (2)</b> 353:11;355:15 <b>face (1)</b> 185:12 <b>facing (1)</b> 226:25 <b>fact (10)</b> 177:24;197:6; 204:23;248:3;280:2; 291:8;293:3;302:14; 305:22;311:13 <b>facts (6)</b> 218:11;273:10; 275:18,21;278:9; 354:18 <b>factual (1)</b> 295:18 <b>factually (1)</b> 275:23 <b>fail (3)</b> 353:15;354:12; 355:10 <b>failing (1)</b> 352:13

<b>Fair (8)</b> 217:23;269:15; 310:3;331:10;364:4, 11,12;365:13 <b>fairly (1)</b> 235:1 <b>fairness (2)</b> 290:3;367:21 <b>Fall (2)</b> 234:16;241:18 <b>familiar (3)</b> 344:20;346:25; 350:3 <b>family (3)</b> 322:2;351:2,10 <b>far (7)</b> 174:11;185:4; 186:16;206:8; 219:24;260:6,8 <b>farfetched (1)</b> 271:6 <b>fast (1)</b> 177:16 <b>fault (1)</b> 355:7 <b>FBI (17)</b> 228:23;229:18,21; 230:11;231:3,11,16, 21,24;232:16;233:5; 234:19;235:9,15; 243:7,10,17 <b>February (8)</b> 179:8,14,22,23; 213:12,23;274:20; 364:7 <b>federal (3)</b> 231:17;260:4; 370:1 <b>Feds (1)</b> 321:22 <b>feel (1)</b> 239:11 <b>fees (1)</b> 239:20 <b>Feighan (3)</b> 181:4;324:22; 325:16 <b>fellow (1)</b> 355:10 <b>felonies (2)</b> 190:19,23 <b>felony (4)</b> 326:23;358:18; 359:11;361:4 <b>female (1)</b> 285:8 <b>few (4)</b> 174:11;235:12; 285:19;361:24 <b>figure (8)</b> 183:1;184:5; 189:24;230:15; 276:17;280:20;	281:2;301:25 <b>file (119)</b> 166:12,13,16,19; 167:9,10,11,24; 168:7,14;169:4,8,10, 13,22,24;170:2; 172:1,5,13,16,22,23; 173:4,5,8;175:11; 183:25;184:1,11,15, 17;185:7,12,12; 186:21,21;187:16; 188:2,23;189:8,20; 192:12,12,16;193:2; 205:2,9;206:3;207:5, 7,20,23;210:10,12; 213:21;216:8; 219:19;220:11,13,13; 221:25;222:6;223:9; 224:7,9;230:25; 232:20;238:18,24; 239:1,2;241:6,8,15, 16,19,22,23;242:5,7, 10;247:3,9;249:4; 253:10;254:24; 255:4;259:24,25; 265:10;276:21,23; 277:2;280:20;282:8; 306:23;318:20; 321:4;327:5;334:7, 10;335:5,17,17; 336:6;337:2,12,15, 25;338:9;340:21; 352:14;360:20,24; 361:6;366:8,8 <b>filed (1)</b> 336:4 <b>files (20)</b> 192:5,7,9;201:15; 204:19,24;205:3; 206:22;244:15,18,21, 24,24;258:21; 260:10;266:4;334:8; 335:13;336:16;355:5 <b>fill (4)</b> 167:18;184:3; 198:6;277:1 <b>filled (2)</b> 171:18;247:23 <b>final (2)</b> 271:8,12 <b>finally (1)</b> 359:20 <b>Find (16)</b> 173:17;224:9; 225:6;248:9;268:1, 15,18;270:4;273:13, 16;279:21;307:23; 314:19;318:1,6,10 <b>finding (1)</b> 317:17 <b>fine (4)</b> 208:12;337:11; 371:1,4	<b>fingerprint (3)</b> 294:19;311:7,8 <b>fingerprints (3)</b> 314:20;315:20; 317:8 <b>Finish (1)</b> 232:14 <b>finished (3)</b> 248:25;260:22; 362:9 <b>firm (1)</b> 188:9 <b>first (35)</b> 166:5;168:17; 171:11;172:6;178:3; 182:6;190:5;202:1; 207:5;209:13; 211:23;214:11; 218:6,25;233:24,25; 234:12;240:10; 252:10;256:19; 302:3;318:2,5;324:6, 7,10,11,12;325:14, 21;328:15,19; 329:12;336:21; 339:22 <b>five (2)</b> 167:6;256:2 <b>Flask's (1)</b> 342:24 <b>Flip (2)</b> 242:1;291:2 <b>Flipping (2)</b> 202:16;214:3 <b>focus (3)</b> 279:23;286:8; 310:17 <b>focused (3)</b> 216:19;230:11; 286:12 <b>fold (1)</b> 241:22 <b>folder (1)</b> 174:16 <b>folders (1)</b> 169:23 <b>folding (1)</b> 241:7 <b>folks (1)</b> 282:1 <b>follow (10)</b> 190:20;243:10; 250:23;270:12; 271:21,22;332:11; 353:20;359:14; 361:21 <b>followed (3)</b> 336:14;340:5; 357:3 <b>following (2)</b> 304:10;331:11 <b>follows (1)</b> 166:7	<b>follow-up (8)</b> 209:10;216:23; 222:5;225:14; 240:23;269:16; 270:21;323:10 <b>FOP (1)</b> 351:18 <b>forensic (2)</b> 278:25;287:20 <b>forget (2)</b> 223:12;275:20 <b>forgot (2)</b> 196:14;278:19 <b>form (42)</b> 166:24;184:3; 187:23;190:5; 191:25;192:20,25; 194:5,8;195:14; 200:15;201:9; 202:19;205:23; 206:17;216:12; 217:9,15;218:8; 226:5;227:7;231:19; 234:23,25;238:15; 252:17;254:8; 255:22,23,24;256:20, 23,25;261:13;265:4, 15;277:1;335:8; 337:7;338:16; 344:21;346:13 <b>formal (10)</b> 190:6;193:9; 195:14;247:21; 270:7;321:24; 340:21;341:7,22; 355:18 <b>formalized (3)</b> 328:2;335:1;348:7 <b>formally (2)</b> 171:5;203:8 <b>forms (1)</b> 193:6 <b>forth (1)</b> 332:12 <b>found (5)</b> 177:16;178:21; 310:22;317:21;322:8 <b>foundation (26)</b> 179:18;185:24; 192:21;193:1;194:9; 205:24;212:21; 226:6;228:10,21; 229:9,11;254:9; 273:10;277:19; 280:14;287:1; 313:25;322:23; 330:25;332:15; 335:9;337:8;347:14; 348:12;353:18 <b>four (13)</b> 167:7;169:19; 171:22;188:11,12; 189:6;194:21;221:4;	256:2;327:18; 333:10;349:20; 351:24 <b>fourth (1)</b> 326:23 <b>Francis (1)</b> 350:10 <b>Frannie (1)</b> 350:11 <b>fraud (8)</b> 223:9,20;225:25; 226:25;227:1,5,8,10 <b>free (1)</b> 239:11 <b>fresh (1)</b> 241:23 <b>friendship (1)</b> 351:15 <b>frivolous (1)</b> 359:18 <b>front (23)</b> 168:6,14;170:4; 177:19;184:1;188:3, 4;191:14,17,19; 194:25;195:6; 208:25;213:16; 241:6,7;278:15; 309:1;319:13;332:2; 334:16;363:12; 366:17 <b>further (4)</b> 236:3;310:1; 361:16;369:20
<b>G</b>				
<b>gather (4)</b> 185:20;196:6; 267:4;313:16 <b>gathered (2)</b> 183:4;186:18 <b>gauge (1)</b> 220:21 <b>gave (10)</b> 193:3,15;203:15; 205:3;235:24; 257:25;321:21; 324:22;328:11;329:2 <b>geared (1)</b> 296:12 <b>gearing (1)</b> 221:21 <b>GELSOMINO (35)</b> 166:9;201:14; 204:15;208:13; 209:5,19,25;210:18; 217:14,23;222:16; 229:24;237:5,12,21; 250:5;290:17,20; 303:2,6;304:6; 307:20;319:24; 320:5;331:19; 342:11,23;361:15;				

364:8;365:3,17; 366:11;369:16,19; 370:3 <b>general (2)</b> 200:20;332:2 <b>generally (9)</b> 182:5,6,9;183:9; 189:13;199:2; 207:21,23;242:5 <b>Gertrude (2)</b> 346:24;347:3 <b>gets (2)</b> 241:20;317:22 <b>Ghana (3)</b> 345:13,14,15 <b>Gibson (3)</b> 181:24;262:16; 263:3 <b>Gibson's (1)</b> 244:20 <b>Giglio (1)</b> 357:18 <b>girlfriend (2)</b> 235:16,18 <b>given (10)</b> 189:7;232:17; 242:24;245:8,8,21; 261:18;276:13; 363:10;366:16 <b>giving (3)</b> 231:22;237:1; 245:18 <b>goes (11)</b> 169:20;220:16; 224:15;240:8;251:2; 261:7;283:24; 334:17,18;336:4,5 <b>good (11)</b> 200:9;215:20; 230:3,17;320:20; 328:17;329:13; 349:18;351:3; 361:23;367:13 <b>Grand (32)</b> 170:18;171:2,4,17, 19,20,22;172:2; 189:16,22;190:7,9; 191:3,6,6;207:12,16; 266:6;272:9,14,16, 19;276:15;330:18, 21;346:18,20;347:6, 11,13,25;360:14 <b>great (3)</b> 245:16,16;335:12 <b>Greene (5)</b> 197:23;229:5; 233:20,22;234:6 <b>grew (2)</b> 350:7,7 <b>group (3)</b> 212:16;234:21; 297:7 <b>grow (1)</b>	350:3 <b>guess (12)</b> 185:5;208:22; 215:10;219:3; 230:18;249:11; 266:20;267:2; 270:19;276:16; 333:18;345:15 <b>guessing (7)</b> 179:11;226:14; 230:17;238:18; 243:9;286:19;360:22 <b>guidance (4)</b> 177:10;329:6,6; 354:2 <b>guidelines (1)</b> 289:13 <b>guides (1)</b> 331:11 <b>guilty (3)</b> 214:11;239:19; 259:2 <b>guy (15)</b> 172:19;176:15; 196:12;197:14,21; 233:18;235:17,19; 243:9;259:1;290:24; 320:14;324:20; 351:3;352:1 <b>guys (8)</b> 177:18;187:6; 254:19;262:17; 306:7;334:19;336:9; 349:12 <b>H</b> <b>half (2)</b> 241:22;242:17 <b>half-baked (1)</b> 283:12 <b>hand (5)</b> 201:16;208:16; 241:3;285:24;303:9 <b>handed (3)</b> 182:11;342:2; 347:5 <b>handing (1)</b> 183:16 <b>handle (17)</b> 168:17;176:3,5,7; 177:16;181:11; 182:18,22;186:6; 190:14;194:22; 255:18;260:17; 327:15,20;328:22; 354:9 <b>handled (12)</b> 168:8;178:11; 184:5;233:5,5; 241:18;255:9; 297:21;305:4; 334:24;339:21;	364:22 <b>handling (4)</b> 167:20;188:8; 305:23;325:15 <b>handprint (1)</b> 273:4 <b>handwriting (36)</b> 210:8;222:25; 242:12,14;243:6; 250:10,15;251:3,5; 252:19;256:4; 257:15,19,20;258:8, 15,18;266:20; 268:23;269:1,8,14; 291:8,12;301:8; 302:2,18;303:12; 304:18;343:13,20,22; 344:10,12;345:8; 363:15 <b>handwritten (3)</b> 250:25;364:5; 366:24 <b>hang (2)</b> 298:20;351:9 <b>happen (4)</b> 223:11,13;224:3; 341:10 <b>happened (7)</b> 197:16;271:3; 279:21;326:7,8; 333:8;357:5 <b>happening (2)</b> 240:23;355:3 <b>happens (1)</b> 214:11 <b>hard (3)</b> 209:16;261:15; 270:11 <b>harder (1)</b> 182:21 <b>Hayes (3)</b> 243:9,14;244:8 <b>H-A-Y-E-S (1)</b> 243:14 <b>head (7)</b> 172:17;194:16; 323:15,23;324:21; 347:6;350:23 <b>heading (3)</b> 167:2;340:20,20 <b>hear (1)</b> 359:10 <b>heard (8)</b> 228:11;232:7; 236:22;286:6;287:3, 5,7;362:15 <b>hearing (5)</b> 168:19;360:6,8,11, 15 <b>heavy (2)</b> 241:24;327:19 <b>help (4)</b> 249:20;329:5,5;	354:2 <b>helpful (1)</b> 239:10 <b>helps (1)</b> 170:11 <b>hereinafter (1)</b> 166:6 <b>here's (2)</b> 270:5,6 <b>herself (1)</b> 217:22 <b>Hick (2)</b> 290:10,12 <b>Hicks (3)</b> 290:16;352:6,7 <b>hierarchy (1)</b> 323:21 <b>highest (1)</b> 320:11 <b>highlight (4)</b> 211:13,20,22; 268:20 <b>highlighted (5)</b> 211:16;245:23; 269:2;284:11;307:21 <b>highlighting (1)</b> 210:21 <b>himself (4)</b> 169:18;181:9; 320:20;337:15 <b>hip (1)</b> 174:12 <b>history (1)</b> 320:12 <b>hold (3)</b> 271:13;273:16; 304:12 <b>holding (1)</b> 201:22 <b>homicide (16)</b> 170:21;189:25; 192:3,4,14;193:24; 196:2;214:12; 270:14;320:11; 350:11,23;351:5; 352:5;360:25;361:2 <b>homicides (1)</b> 170:25 <b>honest (1)</b> 367:16 <b>honing (1)</b> 214:14 <b>hospital (2)</b> 174:13,20 <b>hours (1)</b> 198:16 <b>house (1)</b> 234:17 <b>Hubbard (9)</b> 219:10;222:8; 230:21;243:21; 347:11,12;349:23,24, 25	<b>huh (1)</b> 198:2 <b>hypothesize (1)</b> 313:12 <b>hypothesizing (1)</b> 235:4 <b>I</b> <b>idea (8)</b> 203:10;214:9; 225:22;248:11; 256:25;297:16; 321:2;329:17 <b>identifiable (1)</b> 317:6 <b>Identification (1)</b> 301:17 <b>identify (6)</b> 208:19;297:18; 298:2,16,19;317:5 <b>identifying (1)</b> 170:4 <b>identity (1)</b> 286:22 <b>imagine (4)</b> 234:18;273:2; 308:7;355:3 <b>impeachment (1)</b> 338:18 <b>important (11)</b> 226:1,2;275:14; 297:19;308:5,9,13; 319:15;334:16; 337:4;354:4 <b>impressed (1)</b> 198:3 <b>impression (1)</b> 302:3 <b>inches (3)</b> 166:25;194:21,21 <b>incident (2)</b> 197:2;271:4 <b>include (5)</b> 218:17,19;256:8; 311:11;352:13 <b>included (6)</b> 203:21;204:11; 258:12;283:13; 329:11;357:17 <b>includes (6)</b> 200:25;201:4,11; 202:11;274:22; 303:13 <b>including (2)</b> 170:24;296:13 <b>incomplete (1)</b> 240:6 <b>inconsistencies (2)</b> 354:5;362:14 <b>inconsistency (2)</b> 362:8,17 <b>inconsistent (5)</b>
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353:21;354:7; 361:25;362:2,5 <b>inconsistently (1)</b> 353:16 <b>increasing (1)</b> 221:2 <b>independent (1)</b> 282:14 <b>indicate (3)</b> 202:23;239:8; 364:19 <b>indicated (2)</b> 184:15;247:2 <b>indicates (2)</b> 248:14;307:6 <b>indicating (3)</b> 272:24;273:12; 365:14 <b>indictment (16)</b> 169:4;170:18,19; 174:4;190:3,6;191:7; 206:23;207:4,5,6; 261:18,22;318:17; 334:15,16 <b>indictments (1)</b> 169:7 <b>individual (5)</b> 261:9;265:25; 321:25;327:15;329:8 <b>inference (1)</b> 365:18 <b>informal (2)</b> 225:21;356:7 <b>informally (1)</b> 333:8 <b>information (76)</b> 183:4,22;184:14; 185:20;186:2,17,19; 189:10;191:22; 194:1;196:7;224:5,9; 225:9,17,22,24; 227:19;230:23; 231:2,22,25;234:20; 235:7,24;236:19; 237:3;256:14;266:1, 23;267:3,4,8;271:19; 272:24;273:23; 274:18,20;275:7; 279:8;280:9,11,23, 25;284:7,12,16; 285:20;286:4;296:3; 297:11;300:24; 301:14,19;308:10,13, 23;313:16;314:1,9, 11,17;316:5,7,11,25; 317:16,18;318:24; 319:3;321:19; 331:14;337:4; 352:18;355:1;368:1 <b>initial (2)</b> 188:16;314:24 <b>initials (4)</b> 219:11,15;239:7,	16 <b>inside (3)</b> 169:22;175:11; 241:17 <b>Instead (2)</b> 197:3;293:17 <b>instituted (3)</b> 168:21,24;169:1 <b>intelligence (2)</b> 320:10;351:4 <b>intention (1)</b> 231:20 <b>interest (1)</b> 263:23 <b>interesting (2)</b> 169:3;333:25 <b>inter-office (1)</b> 276:24 <b>interpret (1)</b> 215:21 <b>interpretation (3)</b> 290:15;294:8; 365:13 <b>interview (1)</b> 340:25 <b>interviewed (2)</b> 193:11;338:7 <b>interviews (1)</b> 264:4 <b>intimidated (3)</b> 321:7;362:23; 363:4 <b>intimidation (1)</b> 246:16 <b>into (21)</b> 166:22;190:11; 191:12;207:15; 234:10;236:3,5; 240:8;298:6,7,9; 304:22;307:8; 321:11,16;328:10; 336:13,14;340:10; 349:17;352:9 <b>inventory (1)</b> 335:4 <b>investigate (6)</b> 185:20;236:15; 280:5;326:11;340:3; 359:3 <b>investigated (6)</b> 227:20;228:17; 355:20;356:1,14; 358:18 <b>investigating (2)</b> 228:7;278:3 <b>investigation (46)</b> 171:1;186:3,12,17; 187:6;195:10;200:4; 202:24;220:7; 228:16;229:3,7,7,20, 22;230:2;231:11,16, 18;232:1;233:10; 235:8;236:3,5;260:6;	264:7;266:3;267:8; 269:17;270:22; 271:17;279:19; 284:19,24;285:9,11, 15;314:16,24; 316:21;321:15; 334:13;337:19; 340:10;354:15;358:7 <b>investigations (2)</b> 232:25;321:10 <b>investigative (1)</b> 304:25 <b>investigator (3)</b> 264:16,19,22 <b>investigators (1)</b> 286:2 <b>involved (19)</b> 190:1;228:7,16; 229:21;230:18; 231:11;235:7; 260:12;265:17; 275:16;289:9; 300:20;322:9; 323:19;358:3,9,10, 14;360:2 <b>involvement (3)</b> 229:6;230:1; 231:17 <b>Irish (1)</b> 336:10 <b>Isaiah (28)</b> 200:3;229:2; 231:10,15,25;236:16; 242:15;259:6,6,22; 260:5,10,11,12; 277:13,24;278:4; 282:6;284:25;286:6; 316:23;317:13; 318:15;319:1,6; 320:23;322:11;369:2 <b>issue (2)</b> 229:18;246:9 <b>issues (2)</b> 229:19;246:24 <b>item (2)</b> 300:23,23 <b>items (1)</b> 204:10	<b>Jaffe's (1)</b> 263:22 <b>James (3)</b> 290:22;303:5; 304:15 <b>jammed (1)</b> 224:23 <b>January (1)</b> 179:22 <b>JC (4)</b> 243:17;244:5; 264:12,13 <b>JD (1)</b> 219:13 <b>jewelry (1)</b> 253:6 <b>Jim (2)</b> 347:5,6 <b>job (9)</b> 223:12,15,19,20; 289:24;324:23; 337:12;340:3;354:6 <b>Joe (4)</b> 181:24;244:20; 262:16;263:3 <b>John (19)</b> 219:8,13;234:1,3; 242:20;243:22,25; 244:1,23;245:3; 261:7;323:23; 325:25;329:2; 331:25;333:19; 334:6;351:12;357:6 <b>Jones (2)</b> 325:9;357:7 <b>JT (1)</b> 219:13 <b>JTC (2)</b> 219:14;245:2 <b>judge (36)</b> 167:15;168:9; 178:1;190:24;191:8; 194:13;195:1,7; 204:5;248:10; 260:14;262:15; 263:22,22;266:7; 317:25;318:3,10,16; 331:9;338:21,25; 339:4,15,20;344:7; 345:21;346:2,3; 354:8;359:9,14; 361:3;362:4,11,12 <b>judges (9)</b> 175:14,25;221:9, 11;309:25;310:4; 324:14,22;339:8 <b>judges' (1)</b> 325:12 <b>judge's (4)</b> 176:5;238:18; 239:21;354:8 <b>jumps (1)</b> 282:24	<b>Juries (1)</b> 171:22 <b>jurisdiction (3)</b> 190:22;318:16; 361:4 <b>Jury (38)</b> 170:19;171:2,4,17, 19,20;172:2;177:17, 20;189:16,22;190:7, 9;191:3,6,7;195:1,6; 198:3;207:12,16; 239:20;266:6; 272:10,14,16,19; 275:24;276:15; 310:21;330:18,21; 346:18,20;347:6,11, 13;360:14 <b>Justice (2)</b> 333:9;336:15 <b>Juvenile (3)</b> 324:3,4;330:19
<b>K</b>				
<b>K1 (1)</b> 208:21 <b>K-1 (3)</b> 208:21;209:2,4 <b>Kaminski (1)</b> 351:12 <b>Kane (3)</b> 289:9;290:11,12 <b>keep (13)</b> 169:24;172:23; 173:14,16,23;175:10; 180:6;191:11; 221:25;223:14; 232:14;253:18;355:4 <b>keeping (2)</b> 173:8;205:15 <b>Ken (13)</b> 201:18;203:15; 208:18;209:6,8,24; 216:6;217:14; 222:11;268:21; 288:4;342:25;355:18 <b>kept (4)</b> 166:12;181:1; 260:18;357:2 <b>kerosene (2)</b> 196:12,16 <b>Kevin (6)</b> 288:7,8,14,23; 290:7;351:21 <b>key (2)</b> 225:25;226:4 <b>kid (1)</b> 320:17 <b>Kilbane (1)</b> 194:13 <b>kill (1)</b> 236:13 <b>killed (4)</b>				

197:14,23;233:22; 234:8 <b>kind (24)</b> 182:10;194:1; 203:21;225:13; 235:8;268:7;271:7; 276:24,25,25;277:6, 14;306:1;321:15; 330:22;334:10; 335:4;337:5,18,24; 338:12;351:15; 356:7,17 <b>Kirk (13)</b> 228:24,25;229:1,1; 230:1,18;232:24; 233:19;234:19; 235:10,15,19;236:25 <b>knew (28)</b> 168:8;186:25; 187:3;188:14; 205:20;206:1;275:4; 287:10;306:13,16; 312:21,23;313:7,8, 12,13;315:1;323:12; 325:22;329:3; 336:23;349:11; 350:11,16;351:8; 352:7,7;357:5 <b>knock (1)</b> 326:24 <b>knowing (3)</b> 221:24;281:21; 287:6 <b>knowledge (2)</b> 299:23;348:6 <b>known (4)</b> 189:13;296:18; 307:8;314:18 <b>knows (1)</b> 339:12	366:12,20,23;367:18; 368:14 <b>L-4 (7)</b> 212:7,8;214:25; 215:6;250:4,9;303:4 <b>L-6 (3)</b> 282:18,23,23 <b>L-7 (9)</b> 287:23;363:6,13, 22,24;364:5;365:21; 366:2,6 <b>L-8 (3)</b> 365:23;366:3,6 <b>L-9 (3)</b> 365:25;366:3,6 <b>lady (2)</b> 336:10,10 <b>Lakeside (2)</b> 258:22;259:12 <b>LAMBERT (62)</b> 185:23;187:22; 192:17;194:5;196:8, 17;200:16;201:8,11; 202:3,7,15;203:1; 205:22;207:9; 208:19;212:22; 213:13;216:12; 218:8;227:7;231:13; 232:12;234:23; 254:6,12;255:7,13; 258:4;270:16; 277:10;278:6,9,18; 279:10;280:15; 284:9;285:12; 287:24;290:22; 298:24;308:11; 309:9;310:24;316:2, 18;322:14,21; 330:13;332:14; 338:17;342:8,16; 352:21;356:25; 357:10,21;358:5,13; 369:18;370:14;371:3	317:1,17;370:25 <b>latest (1)</b> 285:18 <b>Laughing (1)</b> 313:1 <b>laundry (1)</b> 226:16 <b>Laurie (19)</b> 181:19;186:11,19; 204:2;205:7;208:7; 213:5;260:15; 262:25;275:19; 287:15;295:21; 296:10,17;297:8; 301:24;312:21,23; 313:7 <b>Laurie's (2)</b> 180:4;244:14 <b>law (7)</b> 168:22,23;184:25; 326:15;331:1,4,11 <b>lawful (1)</b> 166:5 <b>Lazzaro (3)</b> 258:21;259:12; 260:1 <b>lead (4)</b> 186:6;206:9;302:4; 347:12 <b>leading (1)</b> 357:9 <b>leads (3)</b> 323:20;340:4,5 <b>lean (1)</b> 352:1 <b>learn (5)</b> 217:2;264:2;275:1; 319:4;330:3 <b>learned (7)</b> 184:8;186:2,11; 208:5,6;326:20; 364:23 <b>learning (1)</b> 183:21 <b>least (4)</b> 240:2;282:10; 283:2;325:20 <b>leave (2)</b> 294:21;349:8 <b>leeway (1)</b> 325:23 <b>left (15)</b> 179:8,22;205:20; 206:11;242:15,18; 243:6;247:21;249:8, 13;252:1;288:4; 290:24;301:23; 334:19 <b>left-hand (2)</b> 167:3,17 <b>legal (5)</b> 256:5;262:3; 280:15;328:6,18	<b>legibility (1)</b> 341:17 <b>legible (2)</b> 209:20;210:1 <b>legislature (1)</b> 333:19 <b>Leo (4)</b> 349:11,14,18; 352:8 <b>less (3)</b> 177:5;185:4; 264:19 <b>letter (9)</b> 219:7,8;222:5,10; 305:3;331:25;332:6, 8,12 <b>letter-type (1)</b> 241:8 <b>letting (1)</b> 230:19 <b>level (1)</b> 177:14 <b>Liberia (1)</b> 345:14 <b>lie (2)</b> 215:24;367:16 <b>likely (1)</b> 308:19 <b>limit (1)</b> 339:15 <b>Linda (4)</b> 223:2;228:4,19; 321:16 <b>line (5)</b> 270:11,25;326:9, 10;336:18 <b>lineup (1)</b> 336:15 <b>list (15)</b> 173:14,23;174:3; 253:4;254:15; 255:11;257:10; 262:8;280:19; 301:21,23;302:1,15; 303:21;357:18 <b>listed (3)</b> 254:21;333:24; 357:14 <b>listen (1)</b> 365:5 <b>listing (1)</b> 255:24 <b>lists (1)</b> 174:8 <b>literally (4)</b> 177:19;241:18; 293:23;324:17 <b>little (8)</b> 172:23;248:23; 269:2;326:2;343:2, 16,16;352:8 <b>lived (2)</b> 234:1,6	<b>living (1)</b> 345:12 <b>location (1)</b> 199:25 <b>locations (1)</b> 333:10 <b>logical (1)</b> 364:4 <b>long (13)</b> 170:1;178:4;179:2; 161:24;285:11,13,16; 326:21;327:22; 346:16,23;347:8; 352:9 <b>longer (4)</b> 176:16;178:24; 267:12;361:10 <b>look (49)</b> 166:19;174:14; 182:19,21;184:11; 192:9;196:16;202:3, 7;203:1;205:1,3; 209:13;212:5,14; 213:8;214:3;216:3; 219:15;222:23; 231:7;238:10,19; 239:9;247:21;249:2; 258:16;264:24; 266:13;278:23; 279:16;282:18; 284:22;289:6,20; 291:4;304:13,22; 309:3;311:20; 312:15;331:20,20; 332:1;342:1;343:16; 363:11;368:8,14 <b>looked (13)</b> 171:25;200:19; 204:19,24;214:18,21; 242:5,11;249:4; 258:13;292:9,9; 328:13 <b>looking (33)</b> 180:17;187:11; 193:16;210:13; 211:8,15;212:15; 213:7,10,13,14,16; 214:1,24;250:12; 265:12;272:6;275:5; 279:13;290:20; 307:2,16;316:21; 318:5,7,20;342:4,17; 343:9;345:17; 347:10;364:1;365:24 <b>looks (11)</b> 179:23;206:4; 212:8;241:16; 243:13;248:19; 253:22,24;267:12; 293:12;315:16 <b>lost (2)</b> 298:4;313:4 <b>lot (11)</b>
<b>L</b>				
<b>L-1 (18)</b> 208:21,22;209:2,3, 13;211:13,17;212:7, 7;213:9;214:25; 215:10;219:3; 273:14,15;368:4,18, 24 <b>L-13 (3)</b> 368:5,19,24 <b>L-14 (3)</b> 211:14,17;213:9 <b>L-15 (2)</b> 208:22;209:3 <b>L-2 (12)</b> 218:24;222:23,24; 273:18;363:13,15,16; 364:16,19;365:13; 368:8,11 <b>L-3 (7)</b> 215:10;266:14;	<b>large (1)</b> 333:8 <b>larger (1)</b> 201:15 <b>last (13)</b> 219:2,3;230:8; 258:4;264:23;269:4; 274:5;282:23; 283:20;285:11; 327:18;345:16; 349:11 <b>lasted (4)</b> 178:2;285:13,14, 16 <b>late (1)</b> 234:15 <b>latent (1)</b> 307:12 <b>later (5)</b> 181:10;235:12;			



173:3;186:14; 198:12;210:19; 255:25;262:2; 276:11;282:9; 327:24;334:19; 343:25 <b>Lou (1)</b> 194:15 <b>lower (1)</b> 167:16 <b>LP (1)</b> 307:8 <b>lying (2)</b> 201:19;367:15	173:11,17;181:13; 183:7;215:16; 219:25;221:10; 279:15;324:4;346:7; 350:24 <b>Mapp (1)</b> 346:25 <b>March (5)</b> 180:1;219:21; 221:4;248:11;258:25 <b>margin (1)</b> 184:18 <b>MARINO (4)</b> 166:4;209:2; 258:22;370:7 <b>mark (4)</b> 211:9,16;247:3; 342:10 <b>marked (9)</b> 209:4;244:24; 327:5;331:17,24; 341:20;342:9,13,24 <b>marking (5)</b> 244:15,18,21; 252:2;342:15 <b>markings (2)</b> 206:3;366:4 <b>marks (5)</b> 211:13,20,22; 249:9;327:4 <b>Marty (1)</b> 342:24 <b>Mary (8)</b> 257:21,23,25; 366:15,25;367:19,22; 368:16 <b>Mason (1)</b> 322:7 <b>match (8)</b> 294:14;298:21; 307:23;310:6,22; 311:25;312:5,6 <b>matched (3)</b> 308:8;316:6,8 <b>matches (1)</b> 307:24 <b>material (1)</b> 201:23 <b>Matia (7)</b> 345:21;346:1,2,3,6, 6,7 <b>matter (9)</b> 182:15;263:11; 312:15;317:10; 359:14;361:11; 362:3,16;367:19 <b>may (18)</b> 205:14;230:8; 268:15;270:10; 279:22;285:19; 289:20;296:22,23; 302:11;312:12; 313:9;321:1;336:18;	357:23;363:23; 368:25;369:6 <b>maybe (12)</b> 221:16;243:15; 244:8;247:13; 255:21;300:21; 312:18;319:9,9; 350:16,17;358:23 <b>McCaffrey (1)</b> 350:10 <b>mean (61)</b> 177:19;180:21; 189:14;195:19; 196:11,22;199:2; 200:17,17,19;202:10; 204:24;206:1;207:2; 221:14;223:7;226:8; 227:9;234:18; 235:10;240:17; 244:13;248:22; 252:14;268:15; 270:2;274:10; 275:18;285:10; 287:11;289:1;290:2; 293:3,21,23,25; 294:6,19,20;296:7; 297:22;309:21; 324:17;326:2; 327:19;328:14,18; 331:6;333:15; 334:14;342:17; 350:1;353:20; 354:20,22;357:1; 364:2,11;365:6,9; 367:23 <b>meaning (1)</b> 341:14 <b>meaningless (1)</b> 359:18 <b>means (7)</b> 225:5;235:17; 252:5;263:7;294:22; 307:12;348:4 <b>meant (2)</b> 219:1;348:6 <b>meet (4)</b> 191:24;198:22,25; 199:10 <b>meeting (2)</b> 199:13;367:24 <b>members (1)</b> 322:2 <b>memo (2)</b> 184:8;337:5 <b>Memoranda (1)</b> 337:22 <b>memorandum (1)</b> 337:21 <b>memory (3)</b> 217:12;246:9; 309:12 <b>memos (2)</b> 185:15;337:21	<b>mention (1)</b> 368:6 <b>mentioned (4)</b> 230:8;254:25; 316:24;327:24 <b>MENZALORA (47)</b> 192:19;194:7; 195:17;201:7; 209:23;217:11; 218:10;228:1;254:7; 258:7;269:23;270:3, 17;271:20;276:8; 277:9;279:3,9; 280:12;284:10,17; 286:24;292:6; 310:25;312:24; 313:23;314:14; 316:14;322:24; 323:7;340:6;346:4; 348:10;352:16,20,25; 353:4,8,12,19; 354:16;355:2,17; 356:3,23;357:19; 369:14 <b>messy (1)</b> 244:13 <b>met (4)</b> 199:17,24;235:20; 320:9 <b>methodical (1)</b> 305:13 <b>mid (1)</b> 325:3 <b>middle (6)</b> 222:24;288:9,10; 291:8;363:7,24 <b>might (23)</b> 169:15;174:9; 176:20;178:19; 182:20;193:4; 194:21;224:9,21; 225:18,18;234:14,15; 243:24;270:5;272:5; 299:10,11,15,16; 308:24;309:15; 317:23 <b>Mike (3)</b> 243:15;244:7; 320:13 <b>mind (6)</b> 197:18;235:25; 291:19;299:20; 303:23;309:16 <b>mine (17)</b> 197:17;210:22,24; 243:20;251:4,6; 258:19,22;288:21,22; 294:18;303:6,10; 328:12;329:17; 330:16;344:4 <b>minimum (1)</b> 363:5 <b>minute (2)</b>	211:4;282:22 <b>mirror (1)</b> 199:4 <b>misconduct (1)</b> 355:11 <b>misdeemeanor (1)</b> 326:24 <b>misdeemeanors (1)</b> 223:25 <b>misrepresents (2)</b> 216:15;273:10 <b>miss (1)</b> 245:23 <b>missed (5)</b> 183:6;304:25; 313:2;354:24;355:7 <b>missing (7)</b> 239:23;249:5; 283:1,5,15;287:11; 335:6 <b>misspeaking (1)</b> 215:9 <b>mistaken (1)</b> 295:14 <b>mixed (1)</b> 334:21 <b>mob (1)</b> 233:21 <b>moment (2)</b> 310:18;344:24 <b>moments (1)</b> 361:24 <b>Monday (1)</b> 197:20 <b>money (5)</b> 223:11,14,19; 284:1;328:7 <b>month (2)</b> 223:22;318:9 <b>months (11)</b> 178:2,20,22,23; 179:1,9,21;199:8,21; 221:4;330:20 <b>moral (3)</b> 328:19;329:3,9 <b>morality (2)</b> 328:15,17 <b>morally (1)</b> 327:11 <b>more (28)</b> 187:25;195:14; 206:8;207:11; 209:20;210:1;217:7; 218:1;221:3,3,9; 234:14;236:19; 259:11;292:11; 294:11,13;296:16; 307:25;308:23,25; 313:16;316:5,7; 318:23;319:3;333:8; 350:12 <b>morgue (1)</b> 273:25
<b>M</b>				
<b>magistrate (1)</b> 260:3 <b>mail (1)</b> 276:24 <b>main (1)</b> 175:11 <b>Mainly (2)</b> 183:19;329:23 <b>maintain (1)</b> 334:8 <b>Major (3)</b> 173:11,13;174:22 <b>majority (1)</b> 184:21 <b>makes (12)</b> 168:11;169:21; 170:9;174:1;176:10; 177:6,11;187:15; 229:20;241:25; 274:9;308:6 <b>making (13)</b> 179:24;186:24; 190:2;193:8;235:23; 265:25;267:25; 269:13;289:10; 296:7;302:1;303:22; 317:14 <b>manage (1)</b> 324:13 <b>managed (1)</b> 302:6 <b>management (1)</b> 336:7 <b>manager (1)</b> 351:4 <b>Mann (2)</b> 346:24;347:3 <b>manner (3)</b> 244:14,17,20 <b>manslaughter (2)</b> 171:12,14 <b>manual (1)</b> 329:11 <b>manuals (3)</b> 328:9,23;329:1 <b>many (11)</b>				

<b>morning (3)</b> 171:23;197:20; 347:24	173:8;224:25; 292:10	182:12,25;183:5; 23;186:5;206:11; 210:13;221:14; 222:24;223:2;303:7; 337:11	296:7,10;299:6; 303:22;305:7;337:9; 338:1,9;340:24; 341:2;349:2;363:7; 11,24;364:5;366:17, 19,24;367:2,17;368:6	308:11;309:9; 310:24,25;311:1; 312:7,24,25;313:23, 24;314:14;316:2,14; 322:14,21,22,24; 323:3,7;330:13,24; 332:14,16;335:8; 337:7;338:16,17; 339:10;340:6,7; 341:11;347:14; 348:10,11;350:20; 352:16,19,20,21,25; 353:4,8,12,17,19; 354:16,17;355:2,17, 22;356:3,4,16,23,24, 25;357:10,19,20,21; 358:5,12,13;364:8; 365:3,17;366:11
<b>most (10)</b> 177:4;209:16; 221:17;277:11; 308:19;309:25; 339:7,8;359:1;371:3	<b>N</b>	<b>Nick (1)</b> 351:25	<b>Notice (1)</b> 335:15	<b>objections (1)</b> 229:16
<b>motel (2)</b> 226:16;267:11	<b>Nahra's (1)</b> 178:1	<b>noncrossed (1)</b> 293:1	<b>noticed (3)</b> 215:12;255:22; 369:22	<b>objects (1)</b> 229:12
<b>mother (3)</b> 322:6,8;345:12	<b>name (41)</b> 167:23;168:16; 169:9;174:4;175:20; 176:20,23;180:19; 181:25;184:24; 230:5;231:3;232:2,4; 235:9;238:20;239:7, 15,24;240:12; 243:10;245:13,25; 246:3;251:23; 252:16;256:24; 261:7,8;278:20; 280:19;281:11,15; 290:15;320:24; 324:22;336:6; 346:15;350:21; 351:13,23	<b>noncrossed-out (1)</b> 310:14	<b>noting (1)</b> 240:23	<b>obligation (1)</b> 306:9
<b>mother's (1)</b> 283:25	<b>named (4)</b> 181:4;194:15; 324:20;336:11	<b>none (7)</b> 239:6;242:16; 251:3;258:18; 340:12;345:9;356:12	<b>November (6)</b> 178:1;179:22; 219:16,24;220:10; 317:24	<b>obliged (1)</b> 281:2
<b>motion (2)</b> 202:19;330:2	<b>names (12)</b> 167:1,15,19;244:9; 252:24;254:24; 255:11;256:8;282:2; 289:8;350:1,2	<b>Nope (1)</b> 248:16	<b>number (24)</b> 167:3,5,6,9,10,11; 174:3;207:2,12,13, 16;232:23;241:10,12, 13,14;259:25; 262:14;270:6; 279:20,22;330:19; 343:5;347:7	<b>O'Brien (3)</b> 243:13,15;244:7
<b>motive (4)</b> 236:13,18,19; 237:2	<b>Nardi (1)</b> 229:5	<b>Nor (1)</b> 263:3	<b>numbers (5)</b> 167:8;238:20; 342:7;343:2,8	<b>observation (1)</b> 364:3
<b>motives (1)</b> 236:15	<b>nature (2)</b> 321:11;354:19	<b>normal (2)</b> 182:23;317:4	<b>O</b>	<b>observations (1)</b> 179:25
<b>move (6)</b> 175:16;181:2; 208:14;219:1; 266:19;287:23	<b>near (1)</b> 260:20	<b>normally (2)</b> 258:16;300:11	<b>object (1)</b> 369:24	<b>observe (1)</b> 200:2
<b>movements (2)</b> 277:16,25	<b>nearing (1)</b> 173:18	<b>notation (8)</b> 360:23;363:18; 364:13,14,16,19; 365:12;368:15	<b>Objected (167)</b> 179:17;185:23,25; 187:22,23;190:13; 191:25;192:17,19,20, 25;193:20;194:5,7,8; 195:17;196:8,17; 199:17;200:15,16; 201:7,8,9;202:14,15; 204:12;205:22,23; 206:17;207:9; 212:21,22;213:13; 216:12,14;217:9,11, 15;218:8,10;226:5; 227:7;228:1,2,9,20; 229:8,11;231:13,19; 234:23,25;240:5; 250:3;254:6,7,8,12; 255:7,13;260:7; 269:23,24;270:3,16, 17;271:1,20;273:9; 276:8,9;277:9,10,18; 278:6,7,18;279:3,9, 10,11;280:12,13; 284:9,10,17,18; 285:12;286:24,25; 290:14;291:13; 292:4,6;293:4;294:7; 295:8;298:24;301:4;	<b>observed (1)</b> 354:4
<b>moving (1)</b> 277:7	<b>necessarily (1)</b> 240:14	<b>notations (8)</b> 217:20;239:21; 240:1;367:14;368:4, 21,23;369:1	<b>object (1)</b> 369:24	<b>observing (1)</b> 226:15
<b>Mrs (3)</b> 325:9;336:11; 357:7	<b>need (6)</b> 176:4;208:13; 220:22;271:14; 327:2;357:15	<b>note (21)</b> 176:24;184:10; 185:6;198:5,17; 210:6;213:6,25; 214:17;217:12; 235:14;245:1,17; 252:17,25;253:3; 273:13;290:14; 299:7,8;365:13	<b>object (1)</b> 369:24	<b>obstreperous (1)</b> 306:16
<b>much (19)</b> 180:6,6;183:11; 190:17;192:3; 220:21;241:18; 259:11;264:19; 302:11;317:1;324:2, 19;327:20;328:20; 329:2;348:1;368:1; 370:5	<b>needed (3)</b> 329:5,6;361:10	<b>notebooks (1)</b> 193:5	<b>object (1)</b> 327:11	<b>obvious (2)</b> 280:23;354:22
<b>multiple (6)</b> 169:7,11,12;217:7; 250:6;259:5	<b>needs (2)</b> 245:12;246:4	<b>noted (3)</b> 247:14,16;368:14	<b>Objection (167)</b> 179:17;185:23,25; 187:22,23;190:13; 191:25;192:17,19,20, 25;193:20;194:5,7,8; 195:17;196:8,17; 199:17;200:15,16; 201:7,8,9;202:14,15; 204:12;205:22,23; 206:17;207:9; 212:21,22;213:13; 216:12,14;217:9,11, 15;218:8,10;226:5; 227:7;228:1,2,9,20; 229:8,11;231:13,19; 234:23,25;240:5; 250:3;254:6,7,8,12; 255:7,13;260:7; 269:23,24;270:3,16, 17;271:1,20;273:9; 276:8,9;277:9,10,18; 278:6,7,18;279:3,9, 10,11;280:12,13; 284:9,10,17,18; 285:12;286:24,25; 290:14;291:13; 292:4,6;293:4;294:7; 295:8;298:24;301:4;	<b>Obviously (1)</b> 283:15
<b>muni (1)</b> 190:15	<b>neighborhood (1)</b> 349:12	<b>notes (79)</b> 168:18;172:24; 173:1,3;174:25; 175:4,10;179:24; 183:7,25;184:15,18; 185:11;186:16; 193:8,18,25;194:22; 195:2,9,14,16;196:3; 205:8;206:5;210:3, 14;212:5,10;213:1, 16;214:4,7,14,19; 215:1,9,10,11; 216:9;218:3,15; 221:2;226:8;234:22; 235:23;248:12; 249:6;264:2;267:25; 268:10;269:13; 272:23;273:20; 274:7;275:5;293:1;	<b>Object (167)</b> 179:17;185:23,25; 187:22,23;190:13; 191:25;192:17,19,20, 25;193:20;194:5,7,8; 195:17;196:8,17; 199:17;200:15,16; 201:7,8,9;202:14,15; 204:12;205:22,23; 206:17;207:9; 212:21,22;213:13; 216:12,14;217:9,11, 15;218:8,10;226:5; 227:7;228:1,2,9,20; 229:8,11;231:13,19; 234:23,25;240:5; 250:3;254:6,7,8,12; 255:7,13;260:7; 269:23,24;270:3,16, 17;271:1,20;273:9; 276:8,9;277:9,10,18; 278:6,7,18;279:3,9, 10,11;280:12,13; 284:9,10,17,18; 285:12;286:24,25; 290:14;291:13; 292:4,6;293:4;294:7; 295:8;298:24;301:4;	<b>occasionally (1)</b> 178:17
<b>Municipal (4)</b> 190:18,24;359:9; 361:11	<b>new (8)</b> 166:21;185:8; 186:3;232:6;241:23; 301:11;329:19; 333:12	<b>notations (8)</b> 217:20;239:21; 240:1;367:14;368:4, 21,23;369:1	<b>object (1)</b> 369:24	<b>occurred (1)</b> 267:16
<b>murder (14)</b> 171:11,12,13,14; 194:14;258:24; 259:18;277:17; 279:2;284:6;340:10; 361:2;367:6;369:3	<b>newspaper (5)</b> 294:2;295:15,15; 298:12,14	<b>notebooks (1)</b> 193:5	<b>object (1)</b> 327:11	<b>o'clock (1)</b> 320:1
<b>murders (1)</b> 286:21	<b>newspaper's (1)</b> 300:25	<b>notes (79)</b> 168:18;172:24; 173:1,3;174:25; 175:4,10;179:24; 183:7,25;184:15,18; 185:11;186:16; 193:8,18,25;194:22; 195:2,9,14,16;196:3; 205:8;206:5;210:3, 14;212:5,10;213:1, 16;214:4,7,14,19; 215:1,9,10,11; 216:9;218:3,15; 221:2;226:8;234:22; 235:23;248:12; 249:6;264:2;267:25; 268:10;269:13; 272:23;273:20; 274:7;275:5;293:1;	<b>object (1)</b> 369:24	<b>October (7)</b> 177:25;179:21; 233:22;234:13; 317:23;318:4,5
<b>must (10)</b> 227:13;231:2; 235:1;238:17;243:9; 245:10;255:9; 259:21;350:2;367:15	<b>next (12)</b>	<b>noted (3)</b> 247:14,16;368:14	<b>object (1)</b> 369:24	<b>odds (1)</b> 271:2
<b>myself (3)</b>		<b>notes (79)</b> 168:18;172:24; 173:1,3;174:25; 175:4,10;179:24; 183:7,25;184:15,18; 185:11;186:16; 193:8,18,25;194:22; 195:2,9,14,16;196:3; 205:8;206:5;210:3, 14;212:5,10;213:1, 16;214:4,7,14,19; 215:1,9,10,11; 216:9;218:3,15; 221:2;226:8;234:22; 235:23;248:12; 249:6;264:2;267:25; 268:10;269:13; 272:23;273:20; 274:7;275:5;293:1;	<b>object (1)</b> 369:24	<b>off (28)</b> 174:7;182:9,15; 183:4,16,23;184:14; 185:9,17;186:3; 223:24;237:7;

248:20;249:8; 251:16;253:2; 270:24;302:20; 303:6,10;319:25; 337:2,20,25;352:10; 354:3;369:7;371:5 <b>offer (2)</b> 277:13;337:16 <b>office (62)</b> 174:10;182:14; 183:13;187:19; 188:5,21;189:3,11; 191:13,23;194:17; 199:15;203:9;208:2; 211:19;218:23; 222:1;223:3,5,8; 224:10,17;225:5,6, 10,15,25;238:23; 251:3;254:17;263:9; 265:16;276:6,21; 277:8,11;281:15; 287:8;301:17; 306:11;317:22; 322:13,19;323:22,22, 24;324:13,16; 325:23;328:3,11; 329:3,19;330:12; 333:23;334:9; 346:17;355:21; 356:8,22;357:5; 358:19 <b>officer (11)</b> 199:10,13;270:19, 21;287:12;289:20; 347:12;348:21; 352:6;358:17;361:8 <b>officers (44)</b> 189:10;191:21; 192:14;193:18,23; 195:10,15;196:6; 198:4,22;217:8,20, 25;218:7;228:6,15; 236:4;254:16;258:1; 265:21;269:21; 270:13;271:9,16; 279:16;280:5;284:5; 286:1,21;289:7; 347:11,22;348:16; 352:11,23;353:2,6, 10,14;354:12;355:9, 10,14;357:14 <b>official (2)</b> 224:8;289:19 <b>often (3)</b> 328:12;329:17; 333:9 <b>Ohio (3)</b> 197:20;333:19; 347:1 <b>old (1)</b> 336:10 <b>older (4)</b> 259:11;260:1;	349:20;351:10 <b>O'Meara (2)</b> 347:5,6 <b>Once (9)</b> 175:13;190:14; 220:15;245:16; 266:2;317:1;323:9; 362:5;365:4 <b>one (107)</b> 167:17;168:3,15; 169:4,6,17,18,19,22; 171:21,23,23;172:9; 174:21;176:3;177:8; 178:3;180:17; 182:11;183:16; 189:7,15,22;191:17, 18;194:11,11;196:10, 14;197:25;198:6; 200:17;201:22; 207:4;208:23; 212:17;215:3; 216:24;217:8;218:1; 221:14,16;226:14; 234:4,13;241:9; 244:12;245:23; 246:6;247:10; 249:23;250:12,19; 251:19;255:18; 257:14;261:12; 262:10,12;266:13; 267:25;271:23; 274:2;275:18;277:8; 279:19,23;282:25; 287:2;299:10,10; 300:21;304:9; 305:14;307:1,4; 313:14;314:5,7; 316:20;324:5,7; 327:20,22;330:19,20; 331:19;332:2;333:7, 13;337:21;342:5; 345:6;346:23,24; 348:1;357:2;358:16; 359:18,22;360:1,2, 13;363:1;364:11,12; 369:5 <b>ones (5)</b> 173:18;177:4; 227:9;260:17;357:1 <b>only (30)</b> 196:23;198:8; 207:10;209:2;211:4; 212:24;215:21; 220:15;226:12; 235:5;244:12;246:6; 250:1;260:12,17; 272:25;287:3,4,4; 305:7;308:1;309:25; 313:12;323:12; 327:9;333:6;339:24; 347:18;354:1;358:1 <b>opaque (1)</b> 365:10	<b>open (1)</b> 253:19 <b>opened (1)</b> 169:23 <b>opinion (3)</b> 283:21;294:10; 339:17 <b>opinions (1)</b> 296:1 <b>opportunity (4)</b> 261:15;363:10; 366:17;370:8 <b>opposed (2)</b> 338:7;348:8 <b>opposite (1)</b> 293:3 <b>oral (10)</b> 253:1;271:24,25; 338:5,6;348:14,23, 24;349:7;354:7 <b>order (7)</b> 212:19;246:6; 249:16;283:3;332:3; 370:16,23 <b>organization (6)</b> 230:9,11;301:16; 323:22;324:16;356:9 <b>organizational (1)</b> 173:21 <b>organize (2)</b> 334:8,10 <b>organized (6)</b> 197:1;229:4;233:7, 24;234:10;235:12 <b>original (8)</b> 178:15;188:23; 189:4;211:18; 241:15;242:10; 263:19;342:14 <b>originally (2)</b> 243:7;254:14 <b>originated (1)</b> 203:17 <b>others (4)</b> 177:5;325:6,7,10 <b>other's (1)</b> 233:8 <b>otherwise (1)</b> 319:12 <b>ought (1)</b> 231:7 <b>ourselves (1)</b> 176:6 <b>out (114)</b> 167:18;170:13; 171:5,8,18;173:18; 174:12,15;177:16; 183:1;184:3,6;193:6; 197:9,18,19,20,25; 198:1,2,6;203:8; 208:15;213:3; 219:12;221:12; 225:6;226:15;	230:15;233:17; 238:17,21;239:11,20; 241:24;245:21,25; 246:1,2;247:23; 248:9;251:1,1;254:1, 17;260:21;261:22; 263:8;265:22,24; 267:7;268:18;269:1, 6,10,16;270:4,19,21; 276:17;277:1; 279:21,24;280:21; 281:3;282:13;283:3; 289:15,19;291:11,12; 292:8,14,22,25; 293:1,15;297:25; 299:8,19;301:25; 303:8,17;304:18; 305:22,24;307:23; 310:8;311:16; 313:15;314:19; 317:17;318:1,6,10; 322:8;324:2;325:14; 326:3;329:15; 332:23;333:3; 334:14;339:4; 341:15,16;343:1; 346:11;349:3,7; 351:9;356:21; 357:24;359:20 <b>outlines (1)</b> 194:1 <b>outside (3)</b> 173:2,3;351:15 <b>outstanding (2)</b> 320:21;351:5 <b>over (33)</b> 182:17;186:9; 189:5,21;190:19,22; 191:3,4,5;207:3; 208:18;212:6; 215:14;251:2; 260:23;263:12; 287:18;296:15; 314:18;326:3; 329:22;338:23,25; 347:5;359:11,16,19, 21,22;360:4;361:4,4, 5 <b>overs (1)</b> 190:15 <b>overwhelmed (1)</b> 194:25 <b>own (18)</b> 169:8;172:21,23, 24;173:21,23; 192:16;193:5,18; 207:5;267:5,8,18; 268:12;287:3;296:7; 335:19,23	191:14 <b>pad (1)</b> 256:5 <b>page (99)</b> 174:16,16;191:15, 17,18,19;208:25; 209:13,17,21;210:1, 6,13,17,19;212:3; 213:8;214:1,2;215:3; 216:6;219:2,3,6; 222:15,23,24;237:14, 17;238:1,9,20; 240:10,25;241:2,4,6, 7;242:1,3,6,17;249:5, 15,16;250:8,8,9; 252:23;258:3,4,10, 14;263:4;264:23; 266:18,24;268:20; 272:6,7;273:18; 274:2,5;282:23,25; 283:1,5,6,9,14; 287:24;288:9,10; 303:9,18;304:4; 307:2;308:21; 311:17;331:20,22; 343:8,15,15;344:3,5, 16,18;345:3,6,16,17, 18;363:7,17,24; 366:23;367:12; 368:15 <b>pages (10)</b> 191:19;210:19; 211:22;214:19; 239:11;240:6,18; 267:21;343:13,17 <b>paid (1)</b> 320:12 <b>Painesville (2)</b> 235:16,18 <b>Palm (27)</b> 274:3,15;295:14, 15;298:12,16,18,23; 299:3,23;304:21; 305:1;307:7;311:25; 313:17,17;314:10,19; 317:7;363:8,20; 364:14,17,20,23; 365:1,15 <b>pamphlet (1)</b> 329:16 <b>paper (8)</b> 168:4;173:5; 241:20,24;255:25; 274:12,13;297:24 <b>papers (3)</b> 191:15;314:18; 334:13 <b>paragraph (3)</b> 269:4;283:20; 307:21 <b>Pardon (2)</b> 265:7;312:22 <b>parent (1)</b>
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346:2 <b>part (14)</b> 170:5;198:11; 250:4;276:3;289:24; 291:11,12;298:4,9; 299:18;304:17; 314:23;333:8;345:20 <b>partial (1)</b> 307:6 <b>participate (1)</b> 353:25 <b>particular (3)</b> 169:11;192:15; 365:2 <b>Particulars (7)</b> 261:2,4,17,21; 262:1;274:21,24 <b>parties (1)</b> 350:17 <b>partner (1)</b> 352:8 <b>parts (1)</b> 282:3 <b>pass (6)</b> 183:14,22;184:14; 186:1;337:1;338:3 <b>passed (6)</b> 181:4;183:4; 314:10;337:19,25; 351:2 <b>passing (2)</b> 182:15;185:9 <b>past (2)</b> 174:11;318:9 <b>Pat (2)</b> 258:22;259:12 <b>pathology (2)</b> 274:1;315:5 <b>Patrick (8)</b> 290:22,23;291:1; 303:2,3,5,13;304:15 <b>patrolmen (1)</b> 304:8 <b>Pat's (1)</b> 349:21 <b>pause (1)</b> 256:18 <b>pay (2)</b> 330:5;370:18 <b>Pedich (2)</b> 290:19;291:1 <b>penalty (1)</b> 171:10 <b>pending (2)</b> 227:20;228:18 <b>penny (1)</b> 320:17 <b>people (18)</b> 177:10,12;179:1; 260:12,13;263:14,15; 269:1,6,10;290:1; 323:12;325:19; 336:16,18;351:6;	353:3;371:3 <b>per (11)</b> 169:4;175:14; 225:5;274:4,16; 291:16;292:17; 294:3;299:20;312:5, 10 <b>percent (1)</b> 232:4 <b>perfect (2)</b> 177:11;201:25 <b>period (3)</b> 222:1;265:18; 314:10 <b>permanently (1)</b> 260:21 <b>person (19)</b> 167:21;176:8; 181:18;183:17; 190:24;218:14,17,21; 221:18;223:18; 224:1;245:12; 268:15;280:8; 282:16;297:7;348:1; 359:8;361:3 <b>personal (4)</b> 166:13;175:1,4; 350:14 <b>person's (5)</b> 224:7,8;245:15; 280:10;338:4 <b>Pete (2)</b> 350:22,23 <b>phone (10)</b> 197:5;217:24; 218:2,18,20,22; 221:19;224:20; 232:22;233:15 <b>photographed (1)</b> 307:7 <b>physical (1)</b> 278:25 <b>pick (4)</b> 182:25;224:20; 306:12;337:12 <b>picked (2)</b> 168:8;206:10 <b>piece (12)</b> 168:3;173:4; 234:20;241:23; 244:10;255:25; 275:6;284:7;297:15, 24;310:19;352:18 <b>pieces (1)</b> 274:11 <b>place (2)</b> 282:21;335:18 <b>placed (1)</b> 327:12 <b>places (1)</b> 333:10 <b>playing (1)</b> 349:16	<b>plea (5)</b> 168:10;259:1,20; 325:17;327:3 <b>pleading (1)</b> 214:10 <b>pleadings (2)</b> 200:17;261:11 <b>pleas (8)</b> 324:8,10,24;325:1, 8,10,15;327:2 <b>please (14)</b> 187:25;189:18; 238:9;242:2;249:17; 251:11;253:18; 256:16;257:7;258:3; 262:5;264:24; 268:25;345:3 <b>Plus (1)</b> 306:19 <b>pm (4)</b> 252:3;275:2,3; 371:7 <b>point (17)</b> 167:4;185:19; 218:4;246:24;254:4, 11;270:24;283:17; 285:3;309:6;320:23; 335:5;339:4;351:1; 354:23;361:9;366:14 <b>pointing (2)</b> 343:1,8 <b>points (2)</b> 184:10,12 <b>police (72)</b> 166:22;170:12,20; 179:25;189:20; 191:20,21;192:14; 197:8;203:4;204:10, 14,19,25;217:21; 218:6;229:19; 231:12;253:5; 254:25;255:12; 256:9;257:4;258:1; 265:5,15,21;267:1,3, 6,9;269:5,9,16,21; 270:23;271:8,10; 276:13;278:14,23; 279:16,21;280:4; 284:5;286:1,21; 287:12;289:7,19; 305:5;308:21; 314:16,16;320:12; 332:3,5,7,13,23; 338:14;348:5,16,20; 355:13;358:6,6,16, 21,22;361:7;366:1 <b>policies (6)</b> 208:1,6;322:12,18; 330:12;337:3 <b>policy (8)</b> 182:10;183:12; 328:9,23;329:1,11; 335:1;355:11	<b>Pollutro (1)</b> 197:7 <b>polygraphs (3)</b> 199:3;200:2,6 <b>poor (2)</b> 223:9;224:1 <b>pop (2)</b> 174:12;196:23 <b>portion (2)</b> 310:15,17 <b>position (1)</b> 325:16 <b>positive (1)</b> 367:7 <b>possession (7)</b> 203:25;204:10,14, 25;220:12,19;283:18 <b>possible (4)</b> 275:13;306:24; 307:5,22 <b>possibly (1)</b> 197:15 <b>potential (8)</b> 236:3,5,13,15; 237:1;246:16;340:4; 356:2 <b>potentially (2)</b> 234:21;354:25 <b>Practically (1)</b> 293:24 <b>practice (1)</b> 183:13 <b>practices (4)</b> 208:1,6;322:12,18 <b>precipe (3)</b> 251:1;257:15; 262:8 <b>preliminary (4)</b> 317:15;360:6,8,10 <b>prep (3)</b> 180:16;214:4; 221:7 <b>preparation (7)</b> 187:7;193:25; 195:11;213:1; 276:14;296:12; 312:18 <b>preparatory (1)</b> 267:22 <b>prepare (5)</b> 250:2;252:6,13; 266:5,8 <b>prepared (2)</b> 251:20;253:12 <b>preparing (3)</b> 180:1;215:5; 262:12 <b>prepping (1)</b> 220:9 <b>present (10)</b> 266:5;272:9; 308:16;309:18; 310:21;331:12;	347:8;354:6;360:3, 25 <b>presentation (2)</b> 266:6;276:14 <b>presentations (1)</b> 347:25 <b>presented (8)</b> 171:17;222:11; 227:2;272:18; 302:24;347:10; 359:10;362:11 <b>presenting (4)</b> 275:23;326:16; 329:25;330:1 <b>preserved (1)</b> 335:13 <b>pressure (2)</b> 327:12,12 <b>presumably (1)</b> 367:5 <b>presume (1)</b> 313:21 <b>Presumes (2)</b> 218:11;354:17 <b>presuming (2)</b> 232:2;246:5 <b>presumptious (1)</b> 319:7 <b>pretrial (24)</b> 167:20;168:17; 172:19,20;196:4; 214:5,7,12;220:16; 240:2,4;247:6; 248:15;260:19; 266:8;268:3;318:1,3, 11,18,19,22;336:17; 337:10 <b>pre-trial (1)</b> 268:4 <b>pretrials (16)</b> 168:4;174:5;176:8; 191:24;192:6; 195:16,24;198:4; 220:1,3;240:1;247:4, 15,16;264:20;297:1 <b>pretried (1)</b> 182:24 <b>pretry (1)</b> 196:1 <b>pretty (20)</b> 168:20;177:16; 178:23;180:6;188:9; 192:3;200:9;226:20; 230:17;292:9; 302:13,14;327:19,22; 328:19;329:2; 341:10;347:16,25; 349:12 <b>previous (2)</b> 209:4;299:23 <b>previously (13)</b> 166:14;193:10; 247:2;252:9;296:24;
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297:1;331:18,24; 338:12;341:20; 342:13,23;366:20 <b>print (76)</b> 274:3,15;292:3,11, 17,18;293:9,15,17; 294:2,3,4,10,11,14, 17,23;295:1,2,6,14, 15,22,23;297:12; 298:2,13,16,18,23; 299:3,23,25;300:3,4, 15;304:11,21;305:1; 307:7,12,13,23,24; 308:8,23;309:7; 310:6,22;311:24,25; 312:1,5;313:17; 314:10;315:19,23; 316:4,8,12,13,16,18, 19;318:25;319:4,5; 363:8,20;364:14,17, 20,23;365:1,15,16 <b>printing (2)</b> 283:16;288:21 <b>prints (3)</b> 314:19;317:7; 318:24 <b>prior (3)</b> 234:15;353:16; 362:2 <b>private (1)</b> 174:24 <b>privately (1)</b> 223:20 <b>probable (2)</b> 307:25;308:25 <b>probably (45)</b> 176:15;178:25; 179:11;181:14; 194:24;199:12; 212:25;213:1; 216:20;230:18; 232:20;236:18; 238:22;239:3; 243:21;245:7; 247:23;256:4; 259:10;261:7; 263:10;269:11; 271:3;272:8;274:11; 276:13;279:14; 285:13,14;286:17,19; 287:17,18;302:11; 303:22;319:22; 324:25;325:3; 335:24;343:24; 346:11;349:3; 351:13;359:1,2 <b>problem (7)</b> 177:24;203:1; 246:17;251:9; 294:18;327:23; 335:11 <b>problems (1)</b> 316:20	<b>procedure (22)</b> 182:10,13,13; 183:9;184:2;205:18; 207:22;227:16; 245:10;269:25; 270:11,12;271:22; 300:12;305:12; 314:2;321:23; 329:15;330:18; 344:19;345:18; 346:11 <b>procedures (1)</b> 326:15 <b>PROCEEDINGS (2)</b> 166:1;201:1 <b>process (3)</b> 189:9;190:12; 191:5 <b>produce (1)</b> 281:10 <b>produced (3)</b> 211:19;281:15; 283:3 <b>producing (2)</b> 281:12,12 <b>production (1)</b> 343:4 <b>professional (2)</b> 351:17;352:4 <b>Proffert (1)</b> 289:9 <b>program (1)</b> 174:23 <b>progression (1)</b> 310:13 <b>promises (2)</b> 228:8,11 <b>properly (2)</b> 275:24;289:13 <b>prosecuting (2)</b> 224:1;242:21 <b>prosecution (2)</b> 238:15;293:24 <b>Prosecutor (69)</b> 167:11;168:12,15; 170:24;175:6;181:3; 182:12,25;183:5,23; 185:8;186:3,6; 188:14;189:21; 190:9,11,18;206:9; 214:14;234:1; 240:15,16;247:22; 253:25;255:5; 259:11;260:2;261:6, 10;302:5;314:25; 323:25;324:5,23; 325:17,24,25;328:22; 330:15;331:3;332:6; 334:10;335:23; 337:2,9;338:1; 339:11;345:21; 346:14,18,21;352:5, 18;354:13,23;	356:13;358:3,9,11; 359:5,7;360:1,18,20, 21,23;361:12;362:4 <b>prosecutorial (1)</b> 175:5 <b>prosecutors (34)</b> 171:19,20;172:10, 14,17;175:25; 178:16;181:7,11,13, 15;183:14;188:15; 189:23;257:4; 262:15;324:9,15,25; 325:11,12;326:10,10; 327:7;330:11; 331:12;332:11; 333:14,24;337:1; 347:7;358:10; 359:22;360:19 <b>prosecutor's (28)</b> 168:16;187:19; 188:20;189:11; 194:2;203:25;205:2, 9;208:2;211:19; 239:1;240:12; 252:18;264:3; 265:16;281:14; 322:12,19;328:3; 329:9;334:9;336:6; 337:11;346:13; 355:21;356:8,22; 366:7 <b>prospective (4)</b> 221:9;267:25; 301:23;321:13 <b>prospects (1)</b> 214:10 <b>prostitution (1)</b> 227:24 <b>protect (1)</b> 245:7 <b>protection (3)</b> 245:12,15;246:4 <b>prove (1)</b> 259:2 <b>provide (1)</b> 300:2 <b>proving (2)</b> 236:9,9 <b>public (2)</b> 223:11;224:7 <b>Puin (1)</b> 209:25 <b>pulled (4)</b> 260:21;282:12; 335:17;342:22 <b>Pullotro (1)</b> 320:6 <b>purpose (1)</b> 220:16 <b>pursuant (3)</b> 314:15;340:22,24 <b>pursue (1)</b> 280:7	<b>pushed (1)</b> 275:19 <b>put (32)</b> 166:22;185:15; 189:7;197:13; 203:19;211:9,10; 219:19;226:16; 239:7;240:11; 241:22;243:1; 254:19;266:6,9; 280:19;297:15,16,20, 22,23,23,24;298:5; 308:3;312:13; 327:13;334:13; 335:16;344:24; 363:12 <b>putting (2)</b> 266:1;347:25 <b>Q</b> <b>quick (3)</b> 168:21;237:5; 369:6 <b>quite (3)</b> 320:14,17;351:3 <b>R</b> <b>raise (1)</b> 351:11 <b>rape (1)</b> 347:19 <b>rare (2)</b> 225:16;326:2 <b>Rarely (3)</b> 170:23;198:24; 347:17 <b>rather (5)</b> 214:4;245:11; 319:19;329:1;330:9 <b>reached (2)</b> 233:17;313:15 <b>read (36)</b> 176:25;189:24; 190:25;209:18; 215:21;216:8,18; 217:4,16;220:4; 240:7;243:11;245:6; 252:15;253:5; 292:10,13;315:15; 326:15,15;329:18,20, 20;330:6,8;332:10, 17;333:4,13,14; 334:23;337:15; 339:1,3;367:2,10 <b>reading (6)</b> 209:16;274:25; 304:4;318:4;326:5; 330:11 <b>reads (1)</b> 283:20 <b>ready (7)</b>	213:2;214:15; 221:13;267:23; 268:5;303:25;327:17 <b>real (2)</b> 233:4;350:9 <b>realized (1)</b> 342:3 <b>really (16)</b> 169:25;170:1; 178:3;195:12; 198:13;221:15; 261:19;262:2; 279:21;280:23; 285:8;286:4;320:20; 329:8;336:24;342:7 <b>reason (11)</b> 212:20;215:23; 216:1;239:15;243:3; 260:9;263:14;306:2; 354:1;364:25;367:16 <b>reasonable (2)</b> 274:12,13 <b>reassigned (2)</b> 178:17;263:20 <b>recall (93)</b> 172:3;176:12; 186:13,23;187:20; 206:19;210:10,11; 211:23;215:16; 218:2,13,21,22; 219:4;222:9,10; 224:19;225:3; 226:10;227:6,11,12, 18,23;228:22; 232:25;236:6;237:4; 240:11;244:9;246:8, 17,24;252:8;256:15, 15;257:14,23;258:2; 261:1;262:11; 264:18;266:23; 269:12,13;271:2,4; 273:12;275:4,4; 276:2,22;277:15; 278:2,20;279:6; 281:12,19,20,25; 283:7,11;284:14; 287:14,17;290:9; 296:11,22;297:1,6; 299:9;300:5,16; 301:22;303:16; 305:10;315:14; 316:3;319:2,8,14,20; 320:24;322:6,7; 335:10,16;355:25; 357:22,23,24;368:25 <b>recalls (1)</b> 367:4 <b>received (6)</b> 187:20;189:1; 225:10;263:10; 270:23;274:18 <b>recent (1)</b> 231:9
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<b>recently (1)</b> 204:20	<b>refresh (2)</b> 246:15;278:15	226:7,12,18;235:2, 10,11,13,21,23; 236:17;248:6; 250:18,18;260:15; 261:24;262:24; 263:1,22,24;264:10; 268:22;274:25; 278:11,12;282:2,3,4, 6,7;284:3;289:3; 294:24;295:3,5,24; 306:1;321:18; 329:12;333:6,7; 340:9;346:16; 349:16,19,22;350:1; 351:23;352:1; 357:16;367:6,23; 368:3	202:1 <b>representations (1)</b> 338:13 <b>represented (1)</b> 201:19 <b>representing (2)</b> 342:11,21 <b>reprosecution (1)</b> 231:10 <b>request (12)</b> 166:16;188:24; 250:20;257:15; 271:12,15;275:25; 276:5,10,20,25;277:1 <b>requested (1)</b> 276:18 <b>requests (1)</b> 271:8 <b>require (1)</b> 174:19 <b>required (7)</b> 270:14;326:16; 332:11,24;334:2; 337:17,23 <b>reserve (1)</b> 370:24 <b>respond (1)</b> 252:11 <b>response (4)</b> 251:14;252:6; 253:21;256:10 <b>responsible (4)</b> 173:17;256:11; 331:10,11 <b>rest (6)</b> 167:18;286:18; 326:19;352:4; 367:10,12 <b>resubmitted (1)</b> 207:1 <b>results (4)</b> 271:23;300:10; 309:3;315:10 <b>retirement (1)</b> 350:17 <b>return (2)</b> 258:21;260:10 <b>reversed (1)</b> 357:1 <b>review (13)</b> 185:8;195:9; 255:16;264:2; 272:16;278:14; 283:8;289:12,25; 362:12;370:8,15,25 <b>reviewed (6)</b> 211:1,23;246:14; 343:11;365:21,22 <b>reviewing (2)</b> 290:4;367:17 <b>rhyme (1)</b> 212:20 <b>rid (2)</b>	168:20;223:25 <b>right (235)</b> 166:10,17,18; 168:6,15,23;169:24, 25;170:12,12,14; 171:20;172:11,12; 173:22,24,25;175:14, 15,21;177:12; 178:18;179:16; 183:16;184:4,20; 185:21;187:4,10; 190:10;191:23,24; 193:12;195:8;196:9, 13,14;200:10,14; 201:6,20;202:13; 203:4,6,11,16,18,22, 25;204:23,23;205:16, 21;207:7,24;208:9; 210:4,14,24;211:1,2, 7,8,24,25;212:1; 213:12,18;214:20,21; 215:3,3,7,8;218:19; 219:6;220:12,16; 222:16,25;223:23; 227:17;230:13; 236:1,13,24;237:15; 239:13;241:11; 242:20;244:11; 246:21,22;247:4,5; 248:24;249:2,19,25; 252:12,13,19;254:5; 255:2,4;256:8; 258:18;259:15; 261:6;262:8;263:1; 266:14,21;267:16; 270:18;271:21; 273:21;274:4,14; 275:15;276:7;277:8; 281:8;282:21;283:6, 18,23;284:2,3;285:3, 7,11;286:13,14,16, 23;288:1,11,25; 289:23;290:2,4,21; 291:6,9,21;293:1,2,3, 9,22,23;294:5;295:7; 300:9,9,19;303:7; 306:6,7,22;307:8,10, 13,14,15,18;308:10, 19,23;309:8,10; 310:6,12,14,15,23; 311:12,17,18;312:4, 6,21,23;313:18,22; 314:11;315:5,20; 316:9;321:4;323:1, 24,25;324:13; 327:25;328:18,20; 330:20;334:3,25; 335:20;336:8; 337:12;338:15; 342:1,6;343:3; 345:19;347:23; 349:22;354:11; 357:6,16;358:4,21;
<b>Recess (3)</b> 237:9;320:2;369:9	<b>regarding (6)</b> 195:10;225:11; 273:20;297:11; 313:16;363:8	<b>Regina (3)</b> 321:19;322:3; 340:11 <b>Regina's (1)</b> 345:12 <b>regular (1)</b> 341:1 <b>regularly (5)</b> 178:19;205:17; 233:13;242:11;276:2	<b>remembered (2)</b> 235:1;282:9 <b>remembering (1)</b> 226:13 <b>remind (1)</b> 250:10 <b>reminding (1)</b> 251:9 <b>repeat (1)</b> 357:14 <b>rephrase (1)</b> 293:6 <b>report (64)</b> 170:22;195:14; 198:5;203:5;215:22; 225:13,14,19;232:16; 253:5,8;254:25; 256:9;267:7;269:17, 18,22;270:1,7,23; 273:1;274:1,2;277:7; 283:1,10;284:22; 286:18;289:8,10; 300:2,5,14,16,19; 304:20;305:2,4,7,10, 11,19,20;306:4,23, 24;307:6;308:1,2,3, 21;309:1;312:15,16; 314:5;319:10,13,17, 18;335:5;345:4; 348:19;349:8;355:10	
<b>recognize (8)</b> 219:11;238:3; 257:9,18,19;344:14; 345:10;350:21	<b>Regina (3)</b> 321:19;322:3; 340:11 <b>Regina's (1)</b> 345:12 <b>regular (1)</b> 341:1 <b>regularly (5)</b> 178:19;205:17; 233:13;242:11;276:2	<b>reindicted (4)</b> 206:15,21;207:17; 263:25 <b>reindictment (1)</b> 263:19 <b>related (10)</b> 175:1,5,10;227:1; 229:5;238:11,13; 246:9;259:22;279:24	<b>reminded (1)</b> 250:10 <b>reminding (1)</b> 251:9 <b>repeat (1)</b> 357:14 <b>rephrase (1)</b> 293:6 <b>report (64)</b> 170:22;195:14; 198:5;203:5;215:22; 225:13,14,19;232:16; 253:5,8;254:25; 256:9;267:7;269:17, 18,22;270:1,7,23; 273:1;274:1,2;277:7; 283:1,10;284:22; 286:18;289:8,10; 300:2,5,14,16,19; 304:20;305:2,4,7,10, 11,19,20;306:4,23, 24;307:6;308:1,2,3, 21;309:1;312:15,16; 314:5;319:10,13,17, 18;335:5;345:4; 348:19;349:8;355:10	
<b>recollection (10)</b> 187:17;201:23; 231:20;246:15; 249:3;278:16; 282:15;344:23; 356:5;363:1	<b>reindicted (4)</b> 206:15,21;207:17; 263:25 <b>reindictment (1)</b> 263:19 <b>related (10)</b> 175:1,5,10;227:1; 229:5;238:11,13; 246:9;259:22;279:24	<b>relation (8)</b> 177:14;199:8; 200:3;204:25; 205:12;212:12; 232:8;322:10 <b>relationship (10)</b> 215:24;232:24; 349:23,24;350:14,19; 351:15,21;352:2,4	<b>remembered (2)</b> 235:1;282:9 <b>remembering (1)</b> 226:13 <b>remind (1)</b> 250:10 <b>reminding (1)</b> 251:9 <b>repeat (1)</b> 357:14 <b>rephrase (1)</b> 293:6 <b>report (64)</b> 170:22;195:14; 198:5;203:5;215:22; 225:13,14,19;232:16; 253:5,8;254:25; 256:9;267:7;269:17, 18,22;270:1,7,23; 273:1;274:1,2;277:7; 283:1,10;284:22; 286:18;289:8,10; 300:2,5,14,16,19; 304:20;305:2,4,7,10, 11,19,20;306:4,23, 24;307:6;308:1,2,3, 21;309:1;312:15,16; 314:5;319:10,13,17, 18;335:5;345:4; 348:19;349:8;355:10	
<b>record (35)</b> 166:2;202:19; 205:5;208:25; 210:16;211:12; 213:7,25;214:17; 220:17;221:25; 222:14;227:17; 228:14;229:12,16; 237:7,11,19;239:19; 253:14;260:19; 266:7;304:3;319:25; 320:4;335:14;336:2, 7,14;342:21;369:7, 11;370:4;371:5	<b>reindicted (4)</b> 206:15,21;207:17; 263:25 <b>reindictment (1)</b> 263:19 <b>related (10)</b> 175:1,5,10;227:1; 229:5;238:11,13; 246:9;259:22;279:24	<b>relation (8)</b> 177:14;199:8; 200:3;204:25; 205:12;212:12; 232:8;322:10 <b>relationship (10)</b> 215:24;232:24; 349:23,24;350:14,19; 351:15,21;352:2,4	<b>remembered (2)</b> 235:1;282:9 <b>remembering (1)</b> 226:13 <b>remind (1)</b> 250:10 <b>reminding (1)</b> 251:9 <b>repeat (1)</b> 357:14 <b>rephrase (1)</b> 293:6 <b>report (64)</b> 170:22;195:14; 198:5;203:5;215:22; 225:13,14,19;232:16; 253:5,8;254:25; 256:9;267:7;269:17, 18,22;270:1,7,23; 273:1;274:1,2;277:7; 283:1,10;284:22; 286:18;289:8,10; 300:2,5,14,16,19; 304:20;305:2,4,7,10, 11,19,20;306:4,23, 24;307:6;308:1,2,3, 21;309:1;312:15,16; 314:5;319:10,13,17, 18;335:5;345:4; 348:19;349:8;355:10	
<b>recorded (3)</b> 260:25;335:15; 336:5	<b>reindicted (4)</b> 206:15,21;207:17; 263:25 <b>reindictment (1)</b> 263:19 <b>related (10)</b> 175:1,5,10;227:1; 229:5;238:11,13; 246:9;259:22;279:24	<b>relation (8)</b> 177:14;199:8; 200:3;204:25; 205:12;212:12; 232:8;322:10 <b>relationship (10)</b> 215:24;232:24; 349:23,24;350:14,19; 351:15,21;352:2,4	<b>remembered (2)</b> 235:1;282:9 <b>remembering (1)</b> 226:13 <b>remind (1)</b> 250:10 <b>reminding (1)</b> 251:9 <b>repeat (1)</b> 357:14 <b>rephrase (1)</b> 293:6 <b>report (64)</b> 170:22;195:14; 198:5;203:5;215:22; 225:13,14,19;232:16; 253:5,8;254:25; 256:9;267:7;269:17, 18,22;270:1,7,23; 273:1;274:1,2;277:7; 283:1,10;284:22; 286:18;289:8,10; 300:2,5,14,16,19; 304:20;305:2,4,7,10, 11,19,20;306:4,23, 24;307:6;308:1,2,3, 21;309:1;312:15,16; 314:5;319:10,13,17, 18;335:5;345:4; 348:19;349:8;355:10	
<b>recordings (1)</b> 340:23	<b>reindicted (4)</b> 206:15,21;207:17; 263:25 <b>reindictment (1)</b> 263:19 <b>related (10)</b> 175:1,5,10;227:1; 229:5;238:11,13; 246:9;259:22;279:24	<b>relation (8)</b> 177:14;199:8; 200:3;204:25; 205:12;212:12; 232:8;322:10 <b>relationship (10)</b> 215:24;232:24; 349:23,24;350:14,19; 351:15,21;352:2,4	<b>remembered (2)</b> 235:1;282:9 <b>remembering (1)</b> 226:13 <b>remind (1)</b> 250:10 <b>reminding (1)</b> 251:9 <b>repeat (1)</b> 357:14 <b>rephrase (1)</b> 293:6 <b>report (64)</b> 170:22;195:14; 198:5;203:5;215:22; 225:13,14,19;232:16; 253:5,8;254:25; 256:9;267:7;269:17, 18,22;270:1,7,23; 273:1;274:1,2;277:7; 283:1,10;284:22; 286:18;289:8,10; 300:2,5,14,16,19; 304:20;305:2,4,7,10, 11,19,20;306:4,23, 24;307:6;308:1,2,3, 21;309:1;312:15,16; 314:5;319:10,13,17, 18;335:5;345:4; 348:19;349:8;355:10	
<b>recordkeeping (1)</b> 206:25	<b>reindicted (4)</b> 206:15,21;207:17; 263:25 <b>reindictment (1)</b> 263:19 <b>related (10)</b> 175:1,5,10;227:1; 229:5;238:11,13; 246:9;259:22;279:24	<b>relation (8)</b> 177:14;199:8; 200:3;204:25; 205:12;212:12; 232:8;322:10 <b>relationship (10)</b> 215:24;232:24; 349:23,24;350:14,19; 351:15,21;352:2,4	<b>remembered (2)</b> 235:1;282:9 <b>remembering (1)</b> 226:13 <b>remind (1)</b> 250:10 <b>reminding (1)</b> 251:9 <b>repeat (1)</b> 357:14 <b>rephrase (1)</b> 293:6 <b>report (64)</b> 170:22;195:14; 198:5;203:5;215:22; 225:13,14,19;232:16; 253:5,8;254:25; 256:9;267:7;269:17, 18,22;270:1,7,23; 273:1;274:1,2;277:7; 283:1,10;284:22; 286:18;289:8,10; 300:2,5,14,16,19; 304:20;305:2,4,7,10, 11,19,20;306:4,23, 24;307:6;308:1,2,3, 21;309:1;312:15,16; 314:5;319:10,13,17, 18;335:5;345:4; 348:19;349:8;355:10	
<b>records (20)</b> 166:16,21;168:2; 170:13;172:5;175:1, 4;188:24;189:10; 190:8;198:20; 200:21;210:12; 260:25;271:8,12; 276:5,10;336:4,19	<b>reindicted (4)</b> 206:15,21;207:17; 263:25 <b>reindictment (1)</b> 263:19 <b>related (10)</b> 175:1,5,10;227:1; 229:5;238:11,13; 246:9;259:22;279:24	<b>relation (8)</b> 177:14;199:8; 200:3;204:25; 205:12;212:12; 232:8;322:10 <b>relationship (10)</b> 215:24;232:24; 349:23,24;350:14,19; 351:15,21;352:2,4	<b>remembered (2)</b> 235:1;282:9 <b>remembering (1)</b> 226:13 <b>remind (1)</b> 250:10 <b>reminding (1)</b> 251:9 <b>repeat (1)</b> 357:14 <b>rephrase (1)</b> 293:6 <b>report (64)</b> 170:22;195:14; 198:5;203:5;215:22; 225:13,14,19;232:16; 253:5,8;254:25; 256:9;267:7;269:17, 18,22;270:1,7,23; 273:1;274:1,2;277:7; 283:1,10;284:22; 286:18;289:8,10; 300:2,5,14,16,19; 304:20;305:2,4,7,10, 11,19,20;306:4,23, 24;307:6;308:1,2,3, 21;309:1;312:15,16; 314:5;319:10,13,17, 18;335:5;345:4; 348:19;349:8;355:10	
<b>REDIRECT (1)</b> 361:19	<b>reindicted (4)</b> 206:15,21;207:17; 263:25 <b>reindictment (1)</b> 263:19 <b>related (10)</b> 175:1,5,10;227:1; 229:5;238:11,13; 246:9;259:22;279:24	<b>relation (8)</b> 177:14;199:8; 200:3;204:25; 205:12;212:12; 232:8;322:10 <b>relationship (10)</b> 215:24;232:24; 349:23,24;350:14,19; 351:15,21;352:2,4	<b>remembered (2)</b> 235:1;282:9 <b>remembering (1)</b> 226:13 <b>remind (1)</b> 250:10 <b>reminding (1)</b> 251:9 <b>repeat (1)</b> 357:14 <b>rephrase (1)</b> 293:6 <b>report (64)</b> 170:22;195:14; 198:5;203:5;215:22; 225:13,14,19;232:16; 253:5,8;254:25; 256:9;267:7;269:17, 18,22;270:1,7,23; 273:1;274:1,2;277:7; 283:1,10;284:22; 286:18;289:8,10; 300:2,5,14,16,19; 304:20;305:2,4,7,10, 11,19,20;306:4,23, 24;307:6;308:1,2,3, 21;309:1;312:15,16; 314:5;319:10,13,17, 18;335:5;345:4; 348:19;349:8;355:10	
<b>refer (3)</b> 171:16;328:12; 342:7	<b>reindicted (4)</b> 206:15,21;207:17; 263:25 <b>reindictment (1)</b> 263:19 <b>related (10)</b> 175:1,5,10;227:1; 229:5;238:11,13; 246:9;259:22;279:24	<b>relation (8)</b> 177:14;199:8; 200:3;204:25; 205:12;212:12; 232:8;322:10 <b>relationship (10)</b> 215:24;232:24; 349:23,24;350:14,19; 351:15,21;352:2,4	<b>remembered (2)</b> 235:1;282:9 <b>remembering (1)</b> 226:13 <b>remind (1)</b> 250:10 <b>reminding (1)</b> 251:9 <b>repeat (1)</b> 357:14 <b>rephrase (1)</b> 293:6 <b>report (64)</b> 170:22;195:14; 198:5;203:5;215:22; 225:13,14,19;232:16; 253:5,8;254:25; 256:9;267:7;269:17, 18,22;270:1,7,23; 273:1;274:1,2;277:7; 283:1,10;284:22; 286:18;289:8,10; 300:2,5,14,16,19; 304:20;305:2,4,7,10, 11,19,20;306:4,23, 24;307:6;308:1,2,3, 21;309:1;312:15,16; 314:5;319:10,13,17, 18;335:5;345:4; 348:19;349:8;355:10	
<b>reference (3)</b> 258:23;278:19; 368:11	<b>reindicted (4)</b> 206:15,21;207:17; 263:25 <b>reindictment (1)</b> 263:19 <b>related (10)</b> 175:1,5,10;227:1; 229:5;238:11,13; 246:9;259:22;279:24	<b>relation (8)</b> 177:14;199:8; 200:3;204:25; 205:12;212:12; 232:8;322:10 <b>relationship (10)</b> 215:24;232:24; 349:23,24;350:14,19; 351:15,21;352:2,4	<b>remembered (2)</b> 235:1;282:9 <b>remembering (1)</b> 226:13 <b>remind (1)</b> 250:10 <b>reminding (1)</b> 251:9 <b>repeat (1)</b> 357:14 <b>rephrase (1)</b> 293:6 <b>report (64)</b> 170:22;195:14; 198:5;203:5;215:22; 225:13,14,19;232:16; 253:5,8;254:25; 256:9;267:7;269:17, 18,22;270:1,7,23; 273:1;274:1,2;277:7; 283:1,10;284:22; 286:18;289:8,10; 300:2,5,14,16,19; 304:20;305:2,4,7,10, 11,19,20;306:4,23, 24;307:6;308:1,2,3, 21;309:1;312:15,16; 314:5;319:10,13,17, 18;335:5;345:4; 348:19;349:8;355:10	
<b>references (6)</b> 345:11,12;365:22, 23,25;368:20	<b>reindicted (4)</b> 206:15,21;207:17; 263:25 <b>reindictment (1)</b> 263:19 <b>related (10)</b> 175:1,5,10;227:1; 229:5;238:11,13; 246:9;259:22;279:24	<b>relation (8)</b> 177:14;199:8; 200:3;204:25; 205:12;212:12; 232:8;322:10 <b>relationship (10)</b> 215:24;232:24; 349:23,24;350:14,19; 351:15,21;352:2,4	<b>remembered (2)</b> 235:1;282:9 <b>remembering (1)</b> 226:13 <b>remind (1)</b> 250:10 <b>reminding (1)</b> 251:9 <b>repeat (1)</b> 357:14 <b>rephrase (1)</b> 293:6 <b>report (64)</b> 170:22;195:14; 198:5;203:5;215:22; 225:13,14,19;232:16; 253:5,8;254:25; 256:9;267:7;269:17, 18,22;270:1,7,23; 273:1;274:1,2;277:7; 283:1,10;284:22; 286:18;289:8,10; 300:2,5,14,16,19; 304:20;305:2,4,7,10, 11,19,20;306:4,23, 24;307:6;308:1,2,3, 21;309:1;312:15,16; 314:5;319:10,13,17, 18;335:5;345:4; 348:19;349:8;355:10	
<b>referred (2)</b> 329:21,23	<b>reindicted (4)</b> 206:15,21;207:17; 263:25 <b>reindictment (1)</b> 263:19 <b>related (10)</b> 175:1,5,10;227:1; 229:5;238:11,13; 246:9;259:22;279:24	<b>relation (8)</b> 177:14;199:8; 200:3;204:25; 205:12;212:12; 232:8;322:10 <b>relationship (10)</b> 215:24;232:24; 349:23,24;350:14,19; 35		

359:13;360:14,16; 361:5,12,14,15,17; 363:20;366:22; 367:1;368:10,13,17; 369:17;370:12,13,14, 25	<b>running (1)</b> 347:23	329:4 <b>Scribbling (1)</b> 288:12	169:10;173:8; 255:24;300:21	<b>signed (3)</b> 166:15;261:5; 288:7
<b>right-hand (1)</b> 167:16	<b>S</b>	<b>search (1)</b> 326:17	<b>September (10)</b> 177:25;179:7,14, 21;204:7;213:11,22; 284:23;285:15; 316:22	<b>significance (2)</b> 226:7;292:12
<b>River (1)</b> 167:2	<b>sake (1)</b> 180:22	<b>second (14)</b> 168:19;171:12; 186:7;208:24;218:7; 219:3;234:5,8,13; 250:8;307:20,21; 313:14;369:5	<b>sergeant (5)</b> 288:25;289:2,11, 11,17	<b>significant (11)</b> 183:2;185:19; 226:20;275:6; 277:17;284:6,21; 294:11,13;297:13; 310:19
<b>robbery (5)</b> 169:16;190:1; 259:1,6,20	<b>salient (1)</b> 308:4	<b>secondarily (1)</b> 323:14	<b>series (1)</b> 261:24	<b>Similarly (1)</b> 192:14
<b>Robert (2)</b> 181:4;194:14	<b>same (35)</b> 167:24;172:15; 184:25;188:18; 192:7;193:16,16; 204:5;206:1,3;207:1, 12,15,16;211:24; 213:15;223:16,19; 250:5;281:8;292:25; 293:21,21,24;296:5; 299:7,12,16;313:12; 315:5;321:17; 332:12,16;352:4; 365:1	<b>secretaries (2)</b> 188:12;254:1	<b>serve (1)</b> 263:13	<b>single (1)</b> 327:3
<b>Rocco (2)</b> 197:7;320:6	<b>Sarah (4)</b> 229:17;304:5; 313:5;366:13	<b>secretary (3)</b> 188:8;250:22; 263:8	<b>set (14)</b> 182:24;184:2,3; 221:11,11;248:10; 258:23,24;259:4,18; 318:10,18;329:15; 332:12	<b>sit (10)</b> 171:6;176:4; 177:21;185:7;186:9; 189:22,23;280:22; 311:23;349:1
<b>Rocky (1)</b> 167:2	<b>sat (1)</b> 230:23	<b>sections (2)</b> 249:5;330:8	<b>sets (2)</b> 317:25;318:3	<b>site (1)</b> 241:16
<b>role (2)</b> 290:4;358:11	<b>Saturday (8)</b> 187:18;197:9; 209:9;210:3;212:6; 219:5;232:7;254:23	<b>seeing (8)</b> 172:3;210:10,11; 222:10;239:25; 250:18,19;367:5	<b>settled (1)</b> 337:10	<b>sitting (6)</b> 183:20;186:7; 205:25;218:22; 297:6;367:23
<b>Ron (3)</b> 180:10;186:8; 244:17	<b>save (1)</b> 174:8	<b>seem (1)</b> 229:21	<b>several (2)</b> 365:21;368:2	<b>situation (3)</b> 280:18;285:1; 317:11
<b>room (28)</b> 166:17;168:2; 170:13;172:15; 177:8;178:2;181:19; 188:24;204:5; 220:13,17;221:25; 226:16;246:23; 249:8;256:5;260:20, 25;263:21,22;266:7; 323:10;335:14; 336:2,14;346:8; 359:8;360:3	<b>saved (1)</b> 174:9	<b>seemed (1)</b> 285:17	<b>sex (1)</b> 227:25	<b>situations (3)</b> 279:15,20;335:22
<b>rooms (4)</b> 177:8;181:12; 325:12,13	<b>saw (16)</b> 206:3;235:9; 255:23;257:14; 261:12;262:2; 271:14;300:16; 302:2;306:24;307:5; 308:21;317:2; 333:21;349:6;367:8	<b>seems (8)</b> 176:23;180:23; 214:23;245:1; 298:22;307:25; 327:1;367:13	<b>share (1)</b> 172:15	<b>SIU (61)</b> 274:4,16,19;289:5; 290:8,12,25;291:16, 17,25;292:2,17; 294:25;295:6,21; 296:18,21;297:12,24; 298:10;299:13,19,20; 300:2,9,18;301:20; 302:15,22;304:20; 305:19;306:4,23,23; 307:5,22;308:22; 309:6;310:6,21; 311:24;312:5,10,16; 313:11,15;315:12; 316:1,4,7,11;318:23; 319:3,14;363:11,19, 21;364:13,23; 365:14;368:12
<b>rotated (1)</b> 182:9	<b>saying (15)</b> 187:17;191:11; 197:3;198:15;203:4; 206:6;224:22;235:4; 264:10;273:5; 299:18;306:1; 308:20;315:2;325:9	<b>seizure (1)</b> 326:17	<b>sheet (2)</b> 170:17;256:25	<b>six (12)</b> 167:5;178:23,25; 179:9,21;185:18; 194:21;199:8,21; 205:20;256:2
<b>rotation (1)</b> 336:25	<b>scanned (1)</b> 203:20	<b>sell (1)</b> 283:25	<b>Sheriffs (1)</b> 263:10	<b>size (1)</b> 256:5
<b>routinely (1)</b> 223:24	<b>scanning (1)</b> 239:14	<b>seminars (2)</b> 328:8;333:2	<b>Sheriff's (4)</b> 194:16;238:23; 251:2;263:9	<b>sketch (1)</b> 190:4
<b>Rowell (2)</b> 230:21;349:25	<b>scientific (4)</b> 253:8;301:15,17; 302:23	<b>send (5)</b> 221:12;276:12; 277:4;283:12;328:8	<b>short (1)</b> 178:23	<b>skis (1)</b> 326:3
<b>Ruggeri (9)</b> 175:20,20;176:3, 13,18;177:15;178:5, 6,12	<b>Scott (4)</b> 243:22,25;244:1; 282:1	<b>sending (4)</b> 259:10,16;335:19; 359:22	<b>show (6)</b> 198:14;258:25; 259:19;304:12; 331:16;341:19	<b>sledgehammer (1)</b> 336:12
<b>Rule (2)</b> 252:7;333:2	<b>scratched (1)</b> 303:8	<b>sends (1)</b> 332:23	<b>showed (1)</b> 192:4	<b>sloppy (4)</b>
<b>ruled (1)</b> 336:24	<b>screw (1)</b>	<b>senior (2)</b> 328:21;333:14	<b>showing (2)</b> 246:25;366:19	
<b>rules (9)</b> 329:24,24;332:12, 18;333:12,18;334:2; 358:24;370:1		<b>sense (19)</b> 168:11;169:21; 170:9;174:1;176:10; 177:6,11;180:23; 182:15;187:15; 212:9;216:3,19; 241:25;268:3;274:9; 308:6;328:24;329:1	<b>shows (1)</b> 215:3	
<b>ruling (1)</b> 326:1		<b>sent (10)</b> 188:16;220:21; 251:1;254:1;260:19, 24;289:19;314:4; 319:10;335:14	<b>shredded (1)</b> 241:21	
<b>run (1)</b> 223:17		<b>separate (4)</b>	<b>side (13)</b> 168:18;242:15,20; 247:21;258:18; 338:22,22;350:7,8; 351:24;353:24; 362:10;367:14	
			<b>sign (5)</b> 167:19;198:9,15; 261:11;341:5	
			<b>signature (8)</b> 288:4,5,8,16,19,20, 21;371:8	

256:3;292:10; 301:9;334:20 <b>sloughed (1)</b> 223:24 <b>small (2)</b> 256:1;343:6 <b>smaller (1)</b> 201:21 <b>smear (15)</b> 274:3,16;298:18, 23;299:4,24;311:5,8; 317:9;363:20; 364:15,20,24;365:9, 15 <b>Smith (8)</b> 257:21,23,25; 366:15,25;367:19,22; 368:16 <b>so-and-so (1)</b> 185:8 <b>Sobiesky (1)</b> 304:16 <b>social (1)</b> 350:5 <b>softball (1)</b> 349:18 <b>solve (1)</b> 286:21 <b>somebody (4)</b> 182:16;211:9; 224:6;280:3 <b>somehow (6)</b> 234:3;238:13; 263:20;358:3,9; 360:18 <b>someone (14)</b> 193:7;223:11; 224:6;242:23; 245:10,17;255:8; 257:5;267:19; 268:14;291:17; 326:4;349:2;358:8 <b>sometime (1)</b> 341:15 <b>sometimes (7)</b> 175:24;191:21; 192:2;193:4;196:19; 224:5;241:17 <b>somewhere (8)</b> 185:6;247:10,14; 272:1;276:7;300:8; 317:2;358:8 <b>sons (1)</b> 350:25 <b>soon (3)</b> 252:10;362:9,17 <b>sorry (18)</b> 181:16;191:11; 192:22;204:13; 219:1;241:9;283:9; 290:11;298:4; 302:16;304:8;307:2; 313:2,4,5;324:6;	341:24;345:6 <b>sort (4)</b> 240:19;242:17; 256:24;327:14 <b>sounding (1)</b> 176:1 <b>sounds (1)</b> 308:24 <b>speak (4)</b> 264:16;272:21; 287:12,15 <b>speaking (4)</b> 222:14;363:19; 364:13;368:11 <b>special (6)</b> 170:25;178:10; 185:15;196:3; 335:21,22 <b>specific (9)</b> 186:24;196:15; 235:21;271:15; 299:25;319:15; 368:6,19,25 <b>specifically (15)</b> 182:6;185:17; 187:8;189:14; 210:11;236:17; 266:25;271:2; 278:21;287:17; 289:3;295:3;319:20; 321:12;323:13 <b>specifications (1)</b> 171:13 <b>speculation (13)</b> 255:14;279:12; 280:14,16;285:22,23; 286:1;287:1;309:19, 22;321:21;347:15; 348:12 <b>speculative (1)</b> 347:16 <b>speedy (1)</b> 168:21 <b>spent (1)</b> 330:19 <b>split (1)</b> 234:3 <b>spoke (12)</b> 215:16,19;217:6, 24;257:23;264:6; 291:17,24;292:2; 295:21;322:3;368:16 <b>spoken (1)</b> 217:25 <b>sporadically (1)</b> 201:1 <b>sports (1)</b> 352:9 <b>spread (1)</b> 324:2 <b>St (1)</b> 349:21 <b>stack (1)</b>	194:25 <b>stage (6)</b> 177:18;265:19; 268:4;284:19,25; 312:17 <b>stamp (5)</b> 188:13,20;214:2; 261:8;277:12 <b>stamped (14)</b> 187:19;188:19,25; 191:10,11,12,15,16, 19;210:17;222:15; 253:15;304:4;343:15 <b>stamps (1)</b> 343:2 <b>stance (1)</b> 293:25 <b>stand (9)</b> 177:19;194:19,20; 291:19;297:25; 312:14;339:24; 348:1;349:10 <b>standard (12)</b> 189:19;255:22; 289:17;305:21; 314:22;325:20; 327:22;328:14,15; 334:7;341:18;347:16 <b>standards (2)</b> 289:14;328:17 <b>standpoint (3)</b> 182:20;226:22; 295:19 <b>Stanick (2)</b> 351:25;352:1 <b>Staple (1)</b> 256:7 <b>stapled (1)</b> 191:18 <b>star (3)</b> 242:23;243:1; 308:3 <b>starred (1)</b> 244:10 <b>stars (1)</b> 244:13 <b>start (24)</b> 166:11;170:17; 171:7;172:6;173:12; 187:11;190:2;191:4; 214:13;221:1,2,2,6, 21,23;240:22; 242:21;248:3; 252:11;255:24; 263:12;276:19; 318:20;337:12 <b>started (9)</b> 167:7;214:21; 233:7,13;243:7; 252:10;254:23; 293:11;325:14 <b>starts (2)</b> 241:20;258:21	<b>State (2)</b> 167:14;283:24 <b>statement (46)</b> 193:9;217:4,8,19, 21;252:15,16;253:1, 1;258:1;271:24,25; 285:25;286:5;299:2; 310:5;311:12;338:6, 8,13;340:14,19; 341:3,4,13,16,18; 348:4,6,7,9,13,22,23, 24,25;349:1,7; 352:24;353:22,23; 354:7;362:2,7,15,19 <b>statements (12)</b> 217:18;293:20; 338:5,5;340:13,15, 17;341:12,14,22; 348:17;353:16 <b>stating (1)</b> 300:2 <b>station (7)</b> 198:23;199:1,1,11, 18,22;206:11 <b>status (1)</b> 267:24 <b>statute (2)</b> 171:16;189:24 <b>statutes (1)</b> 172:7 <b>stay (3)</b> 222:2;260:22; 346:16 <b>Steele (1)</b> 194:14 <b>Stephanie (2)</b> 324:12;325:25 <b>steps (2)</b> 186:1;337:18 <b>Steve (1)</b> 268:25 <b>stick (1)</b> 173:5 <b>sticker (1)</b> 170:3 <b>still (12)</b> 213:16;229:14; 231:4,4;246:23; 253:15;268:8; 312:19;316:21; 327:1;346:2;359:16 <b>stop (2)</b> 319:7;342:8 <b>stories (1)</b> 337:24 <b>straight (3)</b> 190:8;358:19; 359:4 <b>Street (2)</b> 259:18;336:9 <b>strength (1)</b> 275:20 <b>stretch (1)</b>	176:14 <b>stretched (1)</b> 175:24 <b>stretches (1)</b> 175:19 <b>strike (3)</b> 268:9;341:25; 364:18 <b>struck (1)</b> 177:18 <b>stuck (2)</b> 235:25;357:24 <b>stuff (12)</b> 172:25;181:12; 202:11;233:20; 238:21;244:12; 247:20;249:6;303:8; 315:11;327:19; 355:13 <b>subject (4)</b> 254:3,20;255:21; 339:5 <b>submit (1)</b> 362:6 <b>submitted (3)</b> 261:5;289:10; 298:15 <b>subpoena (4)</b> 215:4,6;250:20; 270:6 <b>subpoenaed (2)</b> 226:9;263:16 <b>subpoenas (3)</b> 251:1;262:9; 263:13 <b>suburbs (2)</b> 190:16;358:17 <b>subversive (2)</b> 230:12;234:21 <b>sufficient (1)</b> 292:22 <b>suggest (1)</b> 212:24 <b>suggestion (2)</b> 182:19;197:17 <b>SUI (1)</b> 294:3 <b>suited (1)</b> 327:16 <b>summary (1)</b> 300:20 <b>Summers (3)</b> 264:20;297:2,8 <b>supervisors (4)</b> 177:3;322:25; 323:4,9 <b>SUPP (1)</b> 343:4 <b>supplemental (2)</b> 366:2,3 <b>suppress (1)</b> 330:3 <b>sure (65)</b>
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175:8,9;182:8; 183:2,3,17;184:7,23; 186:13;188:7; 192:13;198:3; 202:25;203:17; 205:19;209:11; 210:23;213:10; 215:5;216:24; 221:21;226:2; 227:14;232:4,15; 240:7,25;243:8,23; 247:19;253:7,10; 262:4;266:11; 267:20;268:21; 271:3,9;272:2;274:9; 276:16,16;297:14; 302:8,13,14;305:11; 310:7;312:9;314:2; 315:12;329:21; 330:7,11;340:4; 343:14;344:2;347:2; 349:19;351:2; 353:20;354:19; 357:3;358:20;367:20	262:22;264:12,22; 279:22;281:8,18; 286:20;303:15; 316:4;320:14;325:1; 367:25	<b>test (1)</b> 309:4 <b>tested (1)</b> 315:23 <b>testified (20)</b> 166:6,14;196:5; 216:5;247:15; 270:13;272:14; 296:24;297:1; 338:11,21;347:13; 353:15,21;362:6,18, 21;363:3,14,17 <b>testify (2)</b> 192:15;202:4 <b>testifying (1)</b> 362:10 <b>testimony (11)</b> 196:19;210:2; 216:7,15;219:4; 226:19;254:22; 301:4;354:8;362:1, 15 <b>testing (2)</b> 313:21;330:10 <b>Thanks (1)</b> 370:5 <b>theirs (2)</b> 233:6;355:8 <b>thin (1)</b> 175:24 <b>thinking (4)</b> 300:7;311:18,19, 20 <b>third (6)</b> 169:18;176:8; 181:18;260:16,16; 297:7 <b>thorough (1)</b> 349:4 <b>thoroughly (1)</b> 309:2 <b>though (15)</b> 184:19;189:14; 196:18;269:12; 271:3;274:10; 276:17;284:4;329:2; 333:21;334:1; 345:11;347:17; 360:6;368:24 <b>thought (15)</b> 178:22;180:4,25; 187:13;192:22; 205:4;220:18;230:7; 251:19;282:9; 296:25;327:16,17; 345:14;354:4 <b>Thoughts (1)</b> 303:23 <b>threaten (1)</b> 353:3 <b>threatened (2)</b> 246:12;321:7 <b>three (28)</b>	169:19;171:22,24; 175:13;177:7;178:2, 16,20,22;181:10; 189:6;197:13,22; 221:4,12,13;254:16; 263:15;295:9;318:9; 323:16;325:10,21; 327:18,21;338:24; 349:20;350:25 <b>three-man (2)</b> 323:15;324:21 <b>threw (1)</b> 333:16 <b>throughout (3)</b> 210:20;277:16; 322:17 <b>thus (1)</b> 186:16 <b>Tim (4)</b> 209:25;262:16,19, 22 <b>times (12)</b> 196:5;215:16; 259:4;273:8;277:25; 295:9;334:20;346:8; 350:24;351:14; 365:21;368:2 <b>timing (1)</b> 277:16 <b>tip (1)</b> 354:3 <b>today (3)</b> 166:11;247:2; 311:23 <b>to disclose (1)</b> 331:14 <b>together (15)</b> 170:7,8;175:16,22; 176:13,16;180:7; 203:19;204:5; 205:18;235:11; 261:22;287:19; 306:19;333:7 <b>told (28)</b> 180:20;181:17; 186:15;191:2,10; 194:19;197:6;207:7; 242:9;269:6;292:3; 294:25;295:6,22,25; 299:22;306:4; 308:22;309:6,13,15; 311:24;312:2; 333:12;338:6; 340:11;349:11,22 <b>Tom (8)</b> 176:15;228:25; 229:1;230:18; 232:24;235:10; 345:25;346:15 <b>ton (1)</b> 195:2 <b>took (10)</b> 186:21;207:11;	215:1;278:23;323:1, 5;331:1;337:18; 341:13;349:9 <b>top (6)</b> 177:7;241:9; 248:20;249:19; 263:4;318:12 <b>totally (1)</b> 358:2 <b>touch (1)</b> 264:8 <b>tough (1)</b> 347:4 <b>tour (2)</b> 178:24;179:11 <b>tours (1)</b> 178:19 <b>toward (2)</b> 213:20;296:12 <b>towards (3)</b> 213:22;296:2; 344:16 <b>town (1)</b> 351:24 <b>track (2)</b> 328:20;357:2 <b>tracking (1)</b> 277:7 <b>train (1)</b> 177:11 <b>training (7)</b> 183:18,19,20; 327:24,25;328:2; 335:1 <b>transcript (4)</b> 370:9,16,19,24 <b>transcripts (1)</b> 272:16 <b>transfer (1)</b> 202:19 <b>transferred (2)</b> 206:7;360:21 <b>trial (83)</b> 168:1,21;173:13; 174:22;176:4,7; 180:1,15;182:24; 183:19;185:18; 192:16;193:19,25; 194:3;195:6;196:22, 22;200:24;202:23; 205:21;213:1,3,4; 214:4,15,16;215:6; 217:1;219:20;220:9, 20,22,25;221:4,6,8, 20,22,24;233:9; 243:4,5;246:25; 247:17,22,24;248:1, 2,5,10;259:5,6,19; 260:20,22;267:22,23; 268:5;271:7;296:12; 297:21;302:7; 306:13,20,21;308:10, 17;310:20;312:18;
<b>T</b>				
<b>tab (1)</b> 266:16 <b>table (1)</b> 194:3 <b>tactics (1)</b> 281:3 <b>talk (18)</b> 182:5;187:6,12; 196:20;222:8;227:4;	<b>talked (13)</b> 196:13;218:6; 221:18;291:7; 296:14;297:9,9; 303:16;312:12; 346:7;350:24; 355:18;366:20 <b>talking (34)</b> 178:12;193:2,7,17; 197:21;205:13,25; 216:6;218:2,13,20, 20,21,23;222:9; 227:11,12;236:12; 251:15;262:24; 263:1;264:18;267:5, 18;268:11;281:19; 295:16;296:22; 299:13;319:21; 322:6,7;367:9,24 <b>Tall (1)</b> 352:1 <b>taught (3)</b> 326:13,19;330:22 <b>Taylor (3)</b> 262:16,19,22 <b>team (1)</b> 324:21 <b>teams (3)</b> 175:18;177:3; 178:18 <b>technical (2)</b> 254:18;302:22 <b>Technically (2)</b> 287:2;339:21 <b>tedious (1)</b> 348:25 <b>telephone (7)</b> 197:10,21;224:24; 232:23;235:3;277:3; 324:17 <b>telling (5)</b> 246:1;259:18; 297:12;306:10;336:9 <b>tells (1)</b> 266:7 <b>temperature (1)</b> 290:5 <b>tenuous (1)</b> 248:2 <b>term (1)</b> 325:18 <b>termination (1)</b> 173:18 <b>terms (9)</b> 177:13;203:16; 204:9;246:15;321:1; 323:21;327:6; 328:19;334:7			

<p>317:25;330:1; 331:10;335:13; 338:12;341:23; 354:1;361:25;362:4, 22;369:2,22;370:1</p> <p><b>trials (6)</b> 220:3,6;221:10,12, 13;327:21</p> <p><b>trick (1)</b> 202:9</p> <p><b>tried (15)</b> 167:21,24;174:13; 178:1;186:19; 233:23;234:4,4; 287:9;292:11;317:5; 323:11,14;335:23; 346:8</p> <p><b>true (6)</b> 185:1;293:5;350:9; 368:5,18,25</p> <p><b>trunk (1)</b> 226:17</p> <p><b>truth (1)</b> 216:2</p> <p><b>try (12)</b> 177:4;180:11,23; 187:14;220:4; 249:15;258:25; 259:19;275:12; 281:2;327:10;330:16</p> <p><b>trying (19)</b> 180:9,14;185:5; 187:2;194:12,13; 197:1;199:2;202:9; 230:15;245:7;248:6; 268:8;276:16;298:7; 317:7;323:18;327:7; 330:21</p> <p><b>Tubb-Jones (2)</b> 324:12;326:1</p> <p><b>turn (8)</b> 240:25;242:1; 249:15;253:18; 256:16;258:20; 338:23,25</p> <p><b>turned (2)</b> 237:13;292:21</p> <p><b>Turning (1)</b> 366:12</p> <p><b>turns (1)</b> 279:24</p> <p><b>two (49)</b> 167:17;171:24,25; 172:10;175:14,22,25, 25;176:12;177:8; 178:19;187:13; 189:6;194:13; 201:15,16,20,21; 203:13;206:21; 207:11;215:25; 221:11,13,16;226:14; 234:14;269:1,5; 279:23;283:2;</p>	<p>290:10;293:20; 296:16;304:15; 308:25;318:9;320:1; 324:21;325:6,7,19; 327:18,21;338:4,5, 23;358:15;359:22</p> <p><b>two-way (1)</b> 199:3</p> <p><b>type (21)</b> 171:8,15;223:11; 230:10,19,23;232:15; 240:19;250:25; 256:6;289:16,17; 300:25;301:1,6,10, 10;302:22;303:19; 349:2,3</p> <p><b>typed (8)</b> 171:5;190:6;203:8; 253:25;263:9; 340:21;341:3,14</p> <p><b>typed-in (1)</b> 166:25</p> <p><b>typed-up (1)</b> 257:17</p> <p><b>types (1)</b> 315:21</p> <p><b>typically (1)</b> 364:22</p> <p><b>typing (1)</b> 193:6</p>	<p>220:6;225:17; 230:23;235:17; 239:23;301:11; 306:15;348:17</p> <p><b>up (75)</b> 168:8;169:23; 172:20;175:18; 177:3,9,19,21; 178:18,25;180:9; 182:25;184:7;190:2, 4;192:4;195:13; 196:23;197:2; 198:14;206:10; 212:20;219:20,25; 221:21,24;224:20,23; 225:19;231:7;233:1; 234:3;242:20; 244:15,18,21,24,24; 246:25;250:21,23; 252:24;253:25; 256:6,25;257:18; 258:18;263:9; 286:11;291:4,19; 298:20;299:13; 301:24;302:1; 306:12;312:9; 320:24;329:4; 334:21;336:16; 337:12;340:5,21; 341:2,3;349:2;350:3, 7,7;355:4,12;361:21; 362:3,12</p> <p><b>updated (1)</b> 329:16</p> <p><b>upon (1)</b> 278:14</p> <p><b>upper (2)</b> 167:3,16</p> <p><b>upright (1)</b> 258:16</p> <p><b>upside (3)</b> 249:23;258:8,20</p> <p><b>U-R-T (1)</b> 249:1</p> <p><b>use (7)</b> 220:15;256:5; 297:14;306:20; 317:7;328:14;339:13</p> <p><b>used (5)</b> 190:14;223:9,22; 268:7;306:7</p> <p><b>using (1)</b> 170:10</p> <p><b>Usually (7)</b> 170:21;177:3; 192:2;220:22; 223:13;261:17; 330:18</p>	<p><b>vaguely (1)</b> 346:15</p> <p><b>valuables (1)</b> 284:1</p> <p><b>value (1)</b> 334:17</p> <p><b>vanilla (1)</b> 240:19</p> <p><b>varying (2)</b> 273:8;277:25</p> <p><b>vast (1)</b> 184:21</p> <p><b>veracity (1)</b> 216:21</p> <p><b>verdict (6)</b> 167:25;168:9; 238:20;239:19; 240:21;260:24</p> <p><b>version (1)</b> 257:17</p> <p><b>versus (3)</b> 167:14;200:20; 346:25</p> <p><b>victim (9)</b> 285:5;286:6,22; 287:6,9;303:19; 304:17;367:5,9</p> <p><b>victim's (1)</b> 300:25</p> <p><b>VIDEOGRAPHER (8)</b> 166:2;237:7,10; 319:25;320:3;369:7, 10;371:5</p> <p><b>violation (3)</b> 356:15,17,18</p> <p><b>violations (1)</b> 355:11</p> <p><b>volume (6)</b> 200:18,20,20,21, 23,25</p>	<p><b>Walsh (4)</b> 288:7,23;290:7; 351:21</p> <p><b>Walsh's (2)</b> 288:8,14</p> <p><b>Walter (1)</b> 350:19</p> <p><b>warrant (1)</b> 265:12</p> <p><b>waste (1)</b> 359:21</p> <p><b>watched (1)</b> 199:3</p> <p><b>Waterloo (1)</b> 234:17</p> <p><b>Watson (1)</b> 259:17</p> <p><b>Watts (19)</b> 278:20;281:11,15, 18,22;283:22;284:5; 285:6;286:2,12,16; 287:13,16,21;315:24; 317:3;365:22,24; 366:1</p> <p><b>way (33)</b> 173:7;179:24; 182:18;183:14; 187:3,7;208:15; 212:16;213:19; 216:4;219:24; 231:17;235:5;242:2, 3,11;246:2;248:23; 271:22,23;286:11; 289:1;310:8;314:7; 315:10;319:12; 334:19,23,24;336:1; 337:19;363:1,5</p> <p><b>ways (4)</b> 308:12,25;338:24; 358:15</p> <p><b>weakness (1)</b> 275:20</p> <p><b>wealthy (1)</b> 320:20</p> <p><b>week (2)</b> 243:18;359:23</p> <p><b>weeks (6)</b> 179:9;221:16; 317:17;318:9; 327:18;330:20</p> <p><b>Welfare (1)</b> 259:17</p> <p><b>weren't (8)</b> 178:9;200:13; 201:5;235:7;327:16, 17;336:19;337:17</p> <p><b>west (2)</b> 350:8;351:1</p> <p><b>What's (14)</b> 171:2;240:23; 265:23;281:4; 298:17,25;326:16; 328:19;331:8,8,9;</p>
	<p><b>U</b></p>			
	<p><b>ultimately (1)</b> 202:10</p> <p><b>Um-hum (2)</b> 168:25;200:8</p> <p><b>uncomfortable (1)</b> 291:22</p> <p><b>uncommon (1)</b> 337:1</p> <p><b>undated (1)</b> 317:16</p> <p><b>under (11)</b> 207:1,12,16; 242:24;245:3,8,9; 252:7;261:8;324:11; 325:9</p> <p><b>understood (3)</b> 196:18;330:12; 348:5</p> <p><b>Unidentified (1)</b> 285:8</p> <p><b>Unit (12)</b> 270:14;301:17; 323:15;340:14; 350:23;351:4,5; 363:19;364:14,23; 365:14;368:12</p> <p><b>units (2)</b> 178:10;351:6</p> <p><b>unless (10)</b> 192:10;195:12;</p>			
		<p><b>V</b></p>		
		<p><b>VA (1)</b> 243:19</p>	<p><b>W</b></p>	
			<p><b>Wagner (1)</b> 176:15</p> <p><b>wait (6)</b> 167:25;211:4; 282:22;299:18; 314:24;359:23</p> <p><b>waited (2)</b> 314:4,23</p> <p><b>waiting (3)</b> 324:25;336:16,19</p> <p><b>waive (3)</b> 370:11,25;371:3</p> <p><b>waived (1)</b> 371:8</p> <p><b>walk (2)</b> 188:4;361:6</p> <p><b>walked (1)</b> 361:7</p> <p><b>walking (1)</b> 263:11</p>	

339:12;341:19; 358:11 <b>whenever (4)</b> 172:22;297:9; 317:24,25 <b>whereabouts (1)</b> 224:6 <b>Where's (1)</b> 342:9 <b>White (2)</b> 320:13;350:7 <b>whole (8)</b> 172:1;202:5; 228:12;298:10; 330:6;332:17; 344:25,25 <b>whose (9)</b> 210:8;222:21; 250:15;288:5;305:1; 317:9;340:3;343:22; 344:12 <b>wife (4)</b> 194:14;269:7; 367:9;369:3 <b>Willett (1)</b> 336:11 <b>Williams (4)</b> 243:18;244:5; 264:12,13 <b>Willie (18)</b> 281:11,15,18,21; 283:22;284:5;285:6; 286:2,12,16;287:13, 15,21;315:23;317:3; 365:22,23,25 <b>wished (1)</b> 334:11 <b>withdraw (1)</b> 341:25 <b>without (7)</b> 173:7;176:1;188:5; 212:25;226:12,12; 287:10 <b>witness (87)</b> 193:8;199:16; 202:5;208:21;213:7; 214:1,18,20;215:4,6, 20;216:20;222:17; 226:13;227:2; 230:24;237:24; 242:23;245:7,8,18, 19,20;246:4,10,16; 253:16;256:14; 257:10;258:11; 262:8;265:14; 267:14,15,19;268:11, 17;270:4;280:19,24; 281:1,5,25;287:25; 301:21,22;302:1,15; 304:7;307:18; 312:13;321:6,13; 337:24;338:7,11,21; 339:23;340:25;	341:6,12,15,18; 348:9,13,15,18,20, 23;349:9;353:15,20; 361:18;362:1,6,9; 367:4,4,13,15,20; 370:6,10,13,17; 371:1,4 <b>witness' (1)</b> 337:24 <b>witnesses (41)</b> 198:25;199:18,23, 24;202:24;216:24; 218:15;220:24; 221:19;225:8,25; 226:4;227:12; 246:25;250:21; 252:16,25;254:3,19; 255:20;256:1,2; 258:25;259:19; 261:14;264:4,6; 267:5,24;279:22; 281:9;301:20;302:9; 341:22;347:17,19; 352:24;354:3; 362:21;363:2;365:2 <b>witness's (1)</b> 246:3 <b>Wolf (4)</b> 243:22,25;244:3; 267:10 <b>woman (2)</b> 219:10;347:3 <b>wondering (3)</b> 238:13;332:5; 355:19 <b>word (6)</b> 170:11;248:22; 249:10,11,12;329:12 <b>wording (1)</b> 294:18 <b>words (13)</b> 209:16;213:2; 223:10;248:21; 268:7;292:24,25; 294:1;312:4,13,14; 330:6;334:21 <b>work (28)</b> 172:22;175:6,10; 176:18;180:16; 181:24;183:2,11,19; 185:20;221:4,6,23; 224:15;227:25; 229:1;233:9,21; 243:18;254:23; 261:12,22;267:10,22; 275:21;290:1; 326:12;351:16 <b>worked (23)</b> 176:13;181:21,25; 182:2;189:9,13,15, 15;198:2;206:2; 229:2,4;233:21; 234:2;235:11;239:8;	254:17;262:19; 320:10;349:25; 350:2;351:14;366:8 <b>working (34)</b> 168:13;172:10,13, 22,23;175:13;180:5; 196:20;197:22; 199:9;200:14;205:6, 12,16;206:16; 213:21;219:17,21,22, 23;220:9;221:1,3; 223:19;231:12,15; 233:13;248:3; 252:10;253:24; 255:23;281:20; 327:6;347:7 <b>workings (1)</b> 296:6 <b>works (1)</b> 267:12 <b>worksheet (4)</b> 170:18;171:2,4; 172:2 <b>worn (1)</b> 247:10 <b>worry (1)</b> 197:23 <b>Worthy (16)</b> 215:17;217:22,24; 223:3;224:11,18; 225:11,14;226:3,24; 227:18;228:4,8,18; 321:11;367:8 <b>Worthy's (1)</b> 216:7 <b>wow (1)</b> 320:19 <b>wrestling (1)</b> 352:10 <b>write (27)</b> 167:22;168:4; 172:7;173:4;174:6; 184:7;188:17;216:4; 225:19;245:21; 247:20;248:1,12; 252:15,23,24;254:24; 255:19;256:3; 265:22;272:1,8; 274:17;289:8;293:8; 341:2,16 <b>writes (1)</b> 256:25 <b>writing (33)</b> 171:8;173:3; 179:24;206:4;211:5, 6;219:5;222:19; 237:16;238:1;239:4; 242:17;244:11; 246:5,5;250:19; 257:1;265:24;268:6; 283:16;288:13,15; 294:8;303:17;304:9, 10,16;308:2;309:12;	316:25;317:15; 344:9,20 <b>written (31)</b> 168:13;170:4; 182:13;183:12; 184:17;185:11; 217:13;232:16; 242:23;248:7;249:7; 253:1;255:19; 259:10;260:24; 271:24;289:13; 296:10;299:14,14; 303:21;328:9,23; 337:4;338:4,5; 341:13,14;348:14,25; 354:6 <b>wrong (7)</b> 214:23;232:3; 258:14;296:25; 324:15;326:6;328:18 <b>wrongdoing (1)</b> 356:2 <b>wrongful (2)</b> 356:20;357:9 <b>wrote (25)</b> 195:13;215:19; 216:3;217:22;219:8, 9;222:5;243:10,21, 23,25;244:24; 257:17;286:11; 288:16;293:10,17; 299:24;308:1; 311:13,21;312:4,8; 319:12;337:21	<b>1</b> <b>1 (7)</b> 200:20,21,25; 237:14,23;241:3; 331:20 <b>10 (3)</b> 191:18;335:24,24 <b>10:45 (1)</b> 166:3 <b>100 (1)</b> 223:22 <b>10th (2)</b> 318:4,5 <b>11:00 (3)</b> 252:3;275:2,3 <b>11:58 (1)</b> 237:8 <b>111 (1)</b> 209:14 <b>112 (8)</b> 210:17,19;211:9; 212:3;214:1,2; 215:15;216:6 <b>113 (2)</b> 219:2;222:15 <b>114 (1)</b> 222:19 <b>116 (6)</b> 250:20;251:5; 303:9;304:6,7,12 <b>117 (7)</b> 249:18,19,23; 250:9,13,14;251:4 <b>118 (8)</b> 249:16,18,22; 251:11,12;253:15,16, 19 <b>12:00 (1)</b> 274:23 <b>12:25 (1)</b> 237:11 <b>12-11 (1)</b> 263:6 <b>12-11-74 (2)</b> 263:7,10 <b>12-1-74 (1)</b> 263:5 <b>125 (2)</b> 253:18,20 <b>127 (1)</b> 214:3 <b>128 (2)</b> 214:3;222:23 <b>13 (1)</b> 213:9 <b>130 (5)</b> 266:17,18,19,20; 267:21 <b>131 (2)</b> 268:20;269:3 <b>133 (1)</b>
				<b>Y</b>
				<b>year (1)</b> 335:24 <b>years (9)</b> 175:22;176:12,17; 204:22;234:15; 235:12;305:17; 326:5;349:20 <b>yellow (11)</b> 170:17;190:5; 210:21,25,25;211:6, 9,13,20,22;240:19 <b>younger (1)</b> 177:9
				<b>Z</b>
				<b>zero (1)</b> 308:4 <b>zeroed (1)</b> 284:25 <b>zeros (1)</b> 343:4 <b>Zoom (1)</b> 345:20

<p>267:21 <b>14th (2)</b> 220:10;317:20 <b>15 (3)</b> 208:21;209:2; 336:18 <b>16 (1)</b> 252:7 <b>1669 (1)</b> 243:23 <b>171 (3)</b> 256:18,19,21 <b>176 (1)</b> 273:18 <b>17902 (1)</b> 241:10 <b>18 (1)</b> 284:23 <b>184 (3)</b> 264:24,25;265:15 <b>188 (1)</b> 253:16 <b>18th (4)</b> 316:22;317:21; 318:8,13 <b>1973 (1)</b> 333:22 <b>1974 (1)</b> 366:8 <b>1975 (3)</b> 177:25;364:7; 366:9 <b>19th (1)</b> 318:8</p>	<p><b>2207 (1)</b> 291:4 <b>2-20-75 (4)</b> 274:4,16,17; 363:21 <b>2-22 (1)</b> 185:7 <b>2227 (1)</b> 291:4 <b>228 (4)</b> 258:3,11,14,16 <b>23 (2)</b> 343:15,16 <b>24 (1)</b> 263:16 <b>25th (2)</b> 285:18;318:8 <b>264 (2)</b> 282:19;283:4 <b>265 (1)</b> 283:4 <b>267 (5)</b> 287:25;288:1,3; 307:2;308:21 <b>268 (5)</b> 282:20;283:4,15, 17,20 <b>27 (1)</b> 344:3 <b>270 (3)</b> 240:25;241:2,4 <b>271 (2)</b> 243:8,17 <b>29187 (1)</b> 307:9</p>	<p>238:10 <b>398 (1)</b> 238:10 <b>3rd (1)</b> 258:25</p>	<p><b>74-'75 (4)</b> 177:14;179:5; 323:23;328:3 <b>75 (13)</b> 175:6;176:19; 179:8,15;201:6,12; 234:15,16,16;265:18; 274:8,19,20 <b>77 (2)</b> 233:22;234:13 <b>78 (1)</b> 233:23</p>	
		<b>4</b>		
		<b>4 (6)</b> 166:25;242:1,3,6; 283:5,6 <b>40 (16)</b> 223:22;324:9,17; 341:20;342:1,4,4,9, 13,17,18,19,24; 343:12;345:5,6 <b>45 (1)</b> 347:23		
		<b>5</b>		
		<b>50 (5)</b> 181:15;204:22; 223:22;305:16; 347:23 <b>522-1400 (2)</b> 243:7,17		
		<b>6</b>		
		<b>6 (1)</b> 166:25 <b>60 (1)</b> 181:15 <b>64 (1)</b> 282:24 <b>65 (1)</b> 282:24 <b>68 (1)</b> 282:24 <b>681-1950 (1)</b> 243:24 <b>696-1268 (1)</b> 243:18		
		<b>7</b>		
		<b>70 (1)</b> 324:25 <b>70s (2)</b> 281:21;325:3 <b>71 (1)</b> 178:6 <b>72 (1)</b> 178:6 <b>73 (1)</b> 178:7 <b>74 (11)</b> 175:6;176:19; 179:7,14;201:5,12; 204:7;219:16; 262:10;263:17; 265:18		
			<b>8</b>	
			<b>8:11 (1)</b> 367:9 <b>80 (1)</b> 324:25 <b>80s (1)</b> 325:3 <b>87 (2)</b> 344:16;345:17	
			<b>9</b>	
			<b>9:00 (1)</b> 274:23 <b>92 (1)</b> 240:8 <b>95 (1)</b> 232:4 <b>99.6 (1)</b> 290:5	
<b>2</b>	<b>3</b>			
<p><b>2 (10)</b> 200:20,23;237:13, 20,24,24;331:20,22; 345:3,6 <b>2:00 (3)</b> 252:3;275:2,3 <b>2:19 (1)</b> 320:4 <b>20 (4)</b> 274:20;326:4; 336:18;364:7 <b>203 (2)</b> 342:9,14 <b>205 (3)</b> 262:5,6,7 <b>214 (5)</b> 256:16,17;257:7; 258:6,7 <b>2-19-75 (1)</b> 367:4 <b>21st (2)</b> 259:17;336:9 <b>22 (1)</b> 290:21 <b>2-20 (2)</b> 274:8,19</p>	<p><b>3 (7)</b> 266:16;283:1,5,6,9, 9;331:21 <b>3:12 (1)</b> 369:8 <b>3:13 (1)</b> 369:11 <b>3:15 (2)</b> 371:6,7 <b>30 (2)</b> 324:9;347:23 <b>32 (5)</b> 331:23,23,24; 344:5,6 <b>33 (1)</b> 331:17 <b>3-3-75 (2)</b> 243:5;247:18 <b>393 (2)</b> 237:14,15 <b>395 (2)</b> 238:9,10 <b>396 (1)</b> 238:10 <b>397 (1)</b></p>			